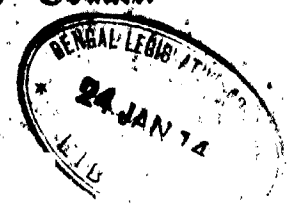
Proceedings of the Council



OF THE

LIEUT.-GOVERNOR OF BENGAL

FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS.

Vol. V.—Part III.

DECEMBER 1871.

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1872.

PROCEEDINGS

OF THE

COUNCIL OF THE LIEUT.-GOVERNOR OF BENGAL

FOR THE

Purpose of making Laws and Regulations.

Saturday, the 7th January 1871.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *presiding.*

T. H. COWIE, ESQ., *Advocate-General,*
THE HON'BLE ASHLEY EDEN,
A. MONEY, ESQ., C.B.,
A. R. THOMPSON, ESQ.,
V. H. SCHALCH, ESQ.,
MOULVY ABDOOL LUTEEF KHAN BAHADOOR,
F. F. WYMAN, ESQ.,
BABOO JOTEENDRO MOHUN TAGORE
T. H. WORDIE, ESQ.,

AND

BABOO DIGUMBER MITTER.

REGULATION OF LODGING-HOUSES AT POOREE.

THE HON'BLE ASHLEY EDEN moved for leave to bring in a Bill for the better regul[illegible] of lodging-houses at Pooree. He said that it would be in the recollection of some o[illegible] members of the Council that a somewhat similar measure was introduced in 1867 an[illegible] subsequently withdrawn. He was not in the Council at the time the Bill was withdrawn [illegible] he had no distinct knowledge of the causes which led to the abandonment of the Bill. [illegible] as he could gather from the proceedings of the Council, there were two grounds for them. [illegible] adopted: one was in consequence of its having been stated by the hon'ble member [illegible] left (Mr. Schalch), as the result of his experience, that the lodging-houses at Pooree w[illegible] in such a state as to require a special law for their regulation. The hon'ble mem[illegible] observed, had said—

"He found that pilgrims were in the habit of putting up in well-known places, which seemed [illegible] very fair condition, and were not under ordinary circumstances overcrowded; but when festi[illegible] only those lodging-houses, but every house in the town, afforded accommodation for one or [illegible] ing to their means, and the great mass that flocked in; and the temples and [illegible] The general opinion at Pooree seemed to be that there was no necessity for [illegible] details of the management of a lodging-house, but all that was [illegible] to prevent overcrowding, and the powers now possessed by the magistrat[illegible] measures necessary for purposes of conservancy."

The second reason was that urged by the [illegible] had referred to him as to the [illegible] that the Bill, as originally introd[illegible] the lodging-houses of Pooree. [illegible] considered to be [illegible] grims who could not [illegible] and on [illegible] at a subsequent part of the memorandum, viz. paragraph 17, he [illegible] in the licensed lodging-

[illegible] Ravenshaw, the [illegible] being passed [illegible] Ravenshaw in consult[illegible] He did not know tha[illegible] would be printed [illegible] the Bill was premature[illegible] that there was no great e[illegible] so far [illegible] since that [illegible] rald also be [illegible] asure for the [illegible] to speak of extra

withdrawn on the ground that it was just as easy to extend the provisions of that ... town of Pooree. Both of those grounds were, however, found to be untenable, for ... and not possible to extend the provisions of the Municipal Act to Pooree; and even if ...ded, it would not have the effect that was desired. Moreover, the description of the state ... the lodging-houses at Pooree given by the hon'ble member was found not to be perfectly correct, as was clearly shewn by the descriptions given in the special reports made by Drs. Mouat, Smith, and Stewart. The reports were not very pleasant reading; but for the information of the Council, and as there clearly was some misapprehension on the subject, he would read a few extracts. Dr. Smith had spoken in his diary of Bullia Gooroo's house being the best lodging-house in Pooree. He would now read what Dr. Stewart noticed in his description of the same house in his diary kept during the late cholera visitation at Pooree:—

"On the 15th inspected Bullia Gooroo's lodging-house (which was spoken of by Dr. Smith as the model lodging-house), as also an adjacent one kept by a female named Phulzeree. One death from cholera occurred there to-day, in a pilgrim who was here three days. I measured the room, it was 15 feet by 12, had only one door; there were 11 beds in it; other rooms were quite full, and the people very much crowded. A strong urinous and fæcal odour prevailed throughout; the atmosphere was oppressive and stifling."

* * * * * * *

"In the evening I went with the constable Muddoo Sing to inspect the place where another case of cholera was reported. It was in Bullia Gooroo's lodging-house; the entrance hall was thronged with people. I was told that pilgrims occupy every square inch of the ground, and at night there is no moving room. A strong urinous odour prevailed in the centre enclosure. In the back ground people defecated freely, and all the rubbish of the house lay heaped in corners unremoved."

* * * * * * *

"There was one room in this lodging-house (Phulzeree's) which is deserving of mention. Inside a person could hardly stand erect; the breadth was not over 6 feet, the length was filled up by a line of beds, the door is equal in size to the panel of an ordinary door; one could only creep in; it was 1½ by 1½ feet."

* * * * * * *

"Found that the backyard of this and other houses, lodging-houses (which I inspected), were freely used, privies, and that no attempt was made to remove the soil. Rubbish of all kinds filled the courtyards, rooms were unswept, and a sickening odour prevailed in all."

* * * * * * *

"Visited several huts; found them, as usual, very filthy; the backyards of all were covered with filth, of the privies were the greatest abomination I ever saw; both urine and excreta were in every stage of position."

* * * * * * *

There were two wells in the house from which water is drawn for domestic use. There is also a very ...tank close by, close to the well that I saw, about twelve feet from it, and on a lower level than the grounds ...ided. The well was a hole containing water, washings of a takoor; this hole was never cleaned; water ...eadily in the soil; the little stagnant water in it was loaded with rubbish, and swarming with worms. ...er of the well was drunk by Khetter Mohun and others. Native doctor Fuckeera Sing saw this well

...om this place I went to the police station, and then to Bullia Gooroo's lodging-house. Seen a woman ...th cholera (a Bengalee pilgrim), attacked this day, 22nd June. Pilgrims were pretty full in the place. ...the backyard; seen as follows:—a well with privy enclosure 12 feet from it; the privy is on higher ...han the platform of the well, round about this platform of stone were excavations in the earth, which ...p urinals; the urine was unmistakeable both in appearance and odour, and no one could gainsay that ...of affairs was as bad as could possibly be. Filth and feculence were abundant all about, for the backyard ...isgusting privy. The soil, if removed at all, was gathered only to be buried in the place. It was ...f this well were not drunk; this, however, I doubt very much. I was shown a well in an ...enclosure was surrounded by rooms for pilgrims, and it seemed as if this well ...above alluded to for the pilgrims of that side of the house. However, this ...id, and there is a drain leading from it, which gave

* * * * *

found the usual overcrowding; the privy was ...
...of the above patients were in the house ...
...the one the pilgrims said they ...
...w said, was ...

but slightly raised from the street; dust can freely blow into it. The streets are very narrow, scarcely four feet wide in some places; the houses on each side are raised on high plinths; the backyards and privies are on the same high level; the soil is loose black, permitting free soakage."

Dr. Smith describes the houses at Pooree as follows:—

"The houses are very faulty in a sanitary point of view. As a rule, each house is considerably raised on a masonry plinth from three to six or eight feet in height. Through this plinth runs a small circular masonry gutter, which communicates with the rooms in the interior of the house, and through the gutter passes fluid refuse and urine from the interior. Nothing can be more objectionable than this, and yet this system obtains in the case of every house in Pooree.

"Noxious ooze is continually trickling from the opening in every plinth, down its front, to a sink or cesspit below. A more dirty or inefficient plan of sewerage or drainage, or whatever it be called, could not be imagined Sometimes even within the plinth itself a dark, deep, open cesspool exists, a receptacle of indescribable abominations, and yet there are thousands of these in Pooree for ever evolving deleterious gases. In the front of each house is a small verandah, immediately below the floor of which is the gutter already described, the effluvia from which consequently emanate within two or three feet of those who sit in the verandah—an ever present source of danger to health The interior of each house consists, as a rule, of two or three small rooms leading one from the other, leeped with mud, and without any windows or roof ventilation. In these room pilgrims are crowded, until not an inch of space is left uncovered. The massing of human beings is somethir horrible, it exactly reminds one of sheep in a pen. It appeared to me almost wonderful that human beings coul exist under such circumstances, the conditions being truly poisonous in character. Each room so-called may l described as a badly lighted den, in which ventilation is not only deficient, but altogether wanting; where t atmosphere is warm, close, stifling, and sickening, and where human beings are crowded together in exce being in direct contravention of every known law of health What organic poisons may not be lurking those loathsome places! What more favorable seed-plot could be devised for the generation of spec disease!"

Dr. Mouat's description was in similar terms:—

"In the lodging-houses they are crowded to such an extent, that I was shown one apartment, in the pilgrim hotel of the place, in which eighty persons were said to have passed the night. It was 13 feet l 10 feet 5 inches broad, with side walls six feet and a half in height, and a low pent roof over it. It but one entrance, and no escape for the effete air. It was dark, dirty, and dismal when quite empty, must have been a pest-house during the festival. In this house, in a similar room, occurred the first of cholera of the last outbreak. If this be the normal state of the best lodging-house in the broad main st of Pooree, it is not difficult to imagine the condition of the worst, in the narrow, confined, undrained, bu slums of the town, for there are lower depths even in this abode of filth and corruption."

[To this passage the following foot-note is attached "This statement seemed to be so incredible, th the matter was subjected to direct experiments in the Alipore Jail, where it was found that 90 natives average size could squat in a cell 10 feet square, and 120 could stand in the same space"]

* * * * * * *

The district superintendent of police also states:—

"I went into a house in the town this afternoon, about 45 pilgrims were putting up, men and women. Tl place had only two doors, no windows (one of the doors was locked). This place measured 12 by 20 feet, certain not more; and in this place no less than 45 persons were crammed. The stench was overpowering, and tl heat like an oven; no wonder the people were attacked with cholera; and unless some law is passed t prevent these pundahs overcrowding their houses with pilgrims, not only cholera, but other diseases, are sure t be generated."

Those were the opinions of three medical men describing the state of things since the former Bill was withdrawn. The subject was very carefully considered by Mr. Ravenshaw, the commissioner of the Orissa division, and he very strongly insisted on some measure being passed. The Bill before the Council had been prepared by Dr. Smith and Mr. Ravenshaw in consultation, and he thought that the object in view would be attained by it. He did not know the there was any necessity to go into the details of the Bill, which would be printed ar circulated. He thought that the extracts quoted showed that the Bill was premature withdrawn on the previous occasion on the mistaken supposition that there was no great e to be dealt with in regard to these lodging-houses.

MR. SCHALCH said the hon'ble mover of the Bill had referred to him as to the r made by him on a previous occasion when the former Bill was under consideration. He very clear recollection of the state of things in the lodging-houses of Pooree. He extra part of the memora[illegible], viz. paragraph 17, he [illegible]d lodging-

that he went over a great portion of the town with the magistrate of Pooree. It was in the year of the famine, and very probably at that season of the year the number of pilgrims was very much less than ordinarily. His impression was that, after consultation with the magistrate, he considered that although the houses might not approach that state of sanitation which a sanitary officer might deem necessary, yet, taking them in connection and comparison with the general mode of life of the natives, there was no reason to seek for greater powers of interference than the magistrate could himself exercise for carrying out all necessary precautions. Certainly the extracts which had been read did show a state of things which required correction; and very possibly, since the time to which he had referred, it might be that the number of pilgrims had increased, and better accommodation was now required for them. Under these circumstances he had no wish to object to the introduction of the Bill; he thought, however, that the committee should carefully see that interference was not exercised to a greater extent than was actually required.

The motion was then agreed to.

EMBANKMENTS AND DRAINAGE.

MR. SCHALCH moved that the Bill to provide for embankments and drainage be read in ouncil. In doing so he said that on a former occasion—in fact at the last meeting of the ouncil—when he moved for leave to introduce this Bill, he explained the circumstances which ve rise to its introduction, and the objects sought to be attained by the measure. He would w, with the permission of the Council, briefly refer to the details of the Bill; and in doing so proposed not to take up the time of the Council by referring to those portions of the Bill which rely re-enacted the existing law, but would draw attention to those parts of the measure which re entirely new in principle, or which contained alterations or modifications to a considerable ree; and it would be the easier for hon'ble members to follow him, because such portions y had been printed in *italics*, while the rest of the Bill, which merely re-enacted the existing , was printed in the ordinary character.

The first point to which he would draw the attention of the Council was the definition the word "embankment" as given in the 2nd section. It now included not only those orks which naturally fell under the definition of an embankment, but also other works, such dams, dykes, walls, groynes, and spurs, which were required or made for the protection of nbankments, or of any land from erosion or overflow of rivers, tides, or waters. It had been und that these subsidiary works were so inherent a part of embankments themselves that it as necessary that the embankment officer should have the same control over them that he had er the embankments themselves.

The next section to which he would allude was the 7th, which would enable the engineer construct new embankments where they were necessary for the protection of the country, nd to dig out new channels for drainage. Hitherto the engineer had only power over existing embankments, but it had been thought advisable to give him similar powers over the drainage of the country. It had been found absolutely necessary that the powers now given should be exercised, though it would be under the same safeguards and after the same inquiries which applied to the powers exercised by embankment officers under the existing law.

In the 13th section there was a very important alteration. He mentioned on the former ccasion how, under certain circumstances, it was found that very great loss and danger were curred by having to follow the forms of procedure laid down by the present Act before the nbankment officer could take action in certain cases when immediate loss to life or property as imminent. It was now proposed to grant him power to take immediate action in such , subject to certain restrictions. If it be found afterwards, on inquiry being made, that uses which led to such action being taken were not sufficient, or rather that the works were not required, provision was made whereby the former state of things should the expense of Government. This provision would compel embankment officers

f the Bill, commencing with section 42, made provision for compensation for losses
the exercise of the powers conferred by this Act, and a subsequent portion of the
to the procedure under which land was to be taken for the purpose of making
averag. A great portion of these provisions was based upon the existing law for the
pay Rs. and for public purposes contained in Act X. of 1870 of the supreme legislature.
togethe te understand, when the Bill was first placed in his hands, why these provisions
a fund d; and here he might observe that when the Bill was entrusted to him, the
well as sent form was placed in his hands, and although he accepted cordially the
liciples of the Bill, he could not hold himself responsible for all its details; and in this
was not quite sure whether the provisions of that Act could properly be incorporated in it;
how far the Council could modify existing Acts of the imperial legislature. But he believed
the reason for introducing those provisions was that that Act made no provision for the
isition of land on emergencies unless the forms of the Act had been previously gone
ugh. He believed it was intended to provide a mode by which, in cases of emergencies,
could at once be taken up and the question of compensation subsequently determined.
provisions of the existing Act, it was believed, would not apply in all its entirety to the
isition of land for the purposes of this Bill; and therefore it was thought expedient to
fy them so as to meet the peculiar circumstances of the Bill.

Another section to which he would refer was section 84, which was of rather a sweeping
e, and conferred power to levy a fine on a village for injury to works constructed under the
where the offender could not be discovered. This section had been introduced at the instance
the Department of Public Works, who, notwithstanding their utmost endeavours, have been
equently unable to discover the offender in cases where severe injury had been done to
bankments for the benefit of a village, regardless of the loss or damage which might occur to
s. These offences had been committed with impunity, since the whole village combined
creen the offender. He thought it would require rather strong grounds to warrant the
tment of such a provision, and that the section would fairly call for the most careful
ideration of the select committee; and even if such a provision were found necessary,
hought it should be confined within the smallest limits necessary to meet the emergency
case.

With these remarks he begged to move that the Bill be read in Council.

our BOO DEGUMBER MITTER said that this was unquestionably a well-considered and a very
up measure, and he subscribed to every word that had fallen from the hon'ble mover
repeat ag for leave to bring in the Bill; and he readily bore testimony to the fact of many
making nnels having been closed by zemindars, either wantonly or for their own selfish
been d The Bill, as far as he had been able to judge, had scrupulously respected private
commit e at the same time it had taken every precaution to protect public interests from
those o rdized by the acts of individuals pursuing their own selfish aims. And he enter-
commit t hopes that with certain modifications, which no doubt the Bill would undergo in
determ the present measure, if carried out properly, besides furthering its immediate objects,
B much greater degree contribute to check the ravages of epidemics, than the one
Orissa avowedly intended for the purpose—he meant the drainage Bill.

as bad motion was then agreed to and the Bill referred to a select committee, consisting of
law at pson, Mr. Robinson, Baboo Joteendro Mohun Tagore, and the mover Mr. Schalch.

M.

VILLAGE CHOWKEEDARS.

rith refer

ioner of motion of MR. RIVERS THOMPSON the Bill to amend the Village Chowkeedaree
cheme fo as further considered in order to the settlement of the clauses.

s it went, EGUMBER MITTER moved the introduction of the following section after section 5 :—

nother m 21 of the said Act VI. of 1870, the word "quarterly" shall be substituted for the word
arried out in sections 21 and 26, the word "quarter" shall be substituted for the word "month,"

censing of

commodation for those ...

uses: and on looking at a subsequent ...

to exercise great care in putting these powers into force, for Government wo
responsible if these powers were exercised without sufficient cause. At the same
provision was introduced whereby, in consequence of these works, which were ex
benefit of the general community, causing loss or injury to private individuals, c
would be made for such individual loss.

Sections 16 to 22 were of a totally new character. They referred to the
country, and empowered engineers to call upon the proprietors of lands to
drainage of their lands. It had been found that the absence of such a provision
law had led to great difficulties, and it was to be hoped that by some provision
means would be taken at a comparatively small cost to remove obstruction to the dra
the country, which, in the opinion of many persons well able to form an opinion on the sub
had been held to be one of the causes of the severe illness of an epidemic nature w
prevailed in the districts bordering Calcutta. No doubt there would be cases in which
measures which could be taken under the provisions of these sections for carrying o
improvements would not suffice to effect a thorough system of drainage, and in such cas
might become necessary to have recourse to the provisions of the other Bill which was i
duced by the hon'ble member on his right (Mr. Eden). At the same time it was thought
in a very large number of cases the action taken under these sections would suffice for sec
at a trifling cost the thorough drainage of the country in the greater number of instances
obstructions had been created.

In section 27 there was a very important modification of the existing law. By tha
the whole cost of the maintenance and repair of an embankment is thrown on the zemindar
the estate on whose lands the embankment lay, utterly regardless of the benefit it mig
confer on other estates. It frequently happened that an embankment protected not only
estate of the proprietor in whose land it lay, but also largely benefited other estates. But u
the existing law the proprietors of these particular estates would escape all payment tow
the cost of the maintenance and repair of those works. It was therefore proposed to intro
in this Bill the principle which had been accepted in the Act passed by this Counci
1866. That Act (VII. of 1866) provided for the payment of the cost of land required
embankments, and declared that such costs should be borne by all the proprietors who ber
from the construction of the embankment, in exact proportion to the benefit they d
from its acquisition. It was proposed now to introduce the same principle here, and
of declaring that the actual owner of the estate on which the embankment stan
bear the whole cost of its maintenance and repair, all estates deriving benef
embankment should pay towards such cost in the exact proportion in which the
from the embankment. He (Mr. Schalch) thought he need say but little in su
principle; and in these days, when the local Governments were required to defray by c
from the general community of their provinces the cost of works of a local nature
to him that the cost of embankments and all such cognate works should be defray
who alone benefited from their construction, and not by the general public.

Sections 28 to 34 incorporated in this Act the provisions of Act VII. of 1866
tioning the cost of land required for the construction of embankments. This had b
view to bringing the whole subject in one enactment, so that the law might be seen at

Section 36 authorized the infliction of penalties in cases of the unauthorized in
with embankments or drainage works. It had been found that great injury had
persons who for their own advantage had injured such works. Thus it often h
proprietors of estates, rather than incur the expense of making sluices for properly
estates, caused breaches to be made, which caused serious injury to the lands of the
the proprietors. But while more stringent punishment was proposed to be enforced for
provision was made for affording greater facilities to proprietors for obtaining the
of any new embankments or drainage channels.

ch word occurs in the said sections; and in section 25 the word "thirty" shall be substituted fo
seven;" and in Section 26 the word "fortieth" shall be substituted for the word "tenth;" and the
verage several sections shall be read and construed as if the words hereby directed to be substituted had been
ly R. ally inserted in the room or the place of the words for which they are hereby respectively directe
geth substituted."
fun
ll He said his object in moving this amendment was simply to afford relief to the tax-payers
en well as to the tax-gatherer. Instead of subjecting tax-payers to the annoyance of constant
un sits from the tax-gatherer, he would provide for quarterly payments, which would not only
l lieve the villagers, but would very much lighten the work of the tax-gatherer, as well a
e facilitate the keeping of accounts by the punchayets; and he did not see that it would in an
way interfere with the proper working of the law.

THE ADVOCATE-GENERAL said that from such information as he possessed (independently
the practical inconvenience of considering at the last moment important amendments in a Bi
which itself had for its object the amendment of a law already passed), he did not know that there
was any objection to the alteration proposed, in favor of convenience to the tax-payers and
convenience to the collector, of substituting quarterly payments for monthly. But as the whol
of the amendments proposed were before the Council in one notice paper, he thought it would
most convenient now that he should point out what appeared to him the practical objection
those portions of the amendments proposed that did not apply specifically to the 21st sec
of the Village Chowkeedaree Act. As he understood the whole of the proposed amendm
of the hon'ble member, he desired that while the instalments of the tax should be paid quar
in advance, instead of monthly in advance, the period of delay, or days of grace, given
the 25th section of the Act, should be extended from seven to thirty, and that the
after which action might be taken on the part of the punchayet under section 26 sho
ection extended from the tenth to the fortieth day of the quarter. Now he (the Advocate-G
ground not see any reason or principle why, if this alteration from monthly to qua
he payments was to be made, any inconvenience would be caused by taking steps for the col
of the tax within the period now prescribed by the Act; that was to say,
seven days after the instalment became payable; and why, under the 26th sectio
punchayet, in the event of non-payment, should not be able to commence action
enforcement of payment after the tenth day. Irrespective of that, he did not see that the
any material difference between the collection of the tax by monthly and by quarterly payn
Indeed, as regards the number of days of grace given to those amenable to the tax, he
to point out that if the alterations in sections 25 and 26, from seven to ten and from ten to
were introduced, the punchayet might be placed in a position of great inconvenience
difficulty. This was one of the instances of the extreme inconvenience to which the C
were put by the practice of introducing important amendments at the last moment. I
not possible to introduce amendments of this kind without very carefully considering ho
they affected other provisions of the Bill. Let us compare the 25th and 26th sections, t
the alterations proposed to be made in those sections of substituting thirty for seven and
for ten, with the 43rd 44th, and 45th sections of the Act. Under sections 25 and 26, as pro
to be altered, the payers of the tax would have until the thirtieth day of the quarter to
and the punchayet could not take any steps whatever to enforce payment till after the fortiet
and what they could do after the fortieth day would be to publish a list of defaulters, which
necessarily take up some time. If there was any meaning in the publication of this list,
intended that it should be published for a certain number of days, greater or smaller.
under section 27, the collecting member of the punchayet was to issue his warrant
enforcement of payment to the chowkeedar, and the chowkeedar was to proceed to put
execution. Under the 44th section the chowkeedar might go before the magistrate on
day of the month following the month for which his salary was due, which
connection with the period of forty days, until the expiration of which the pur

ot proceed to enforce payment of the tax, would give the punchayet only fiv
sometimes only four, to obtain the necessary funds for the payment of the chowkeed
and some time should be given between the time when they were authorized
payment of the tax and the day on which the chowkeedar's salary was due, to
punchayet to issue a list of defaulters and warrants to the chowkeedar for the l
tax. Practically, it would be quite impossible, for all that to be carried out within
days: therefore the punchayet would have no answer to make why they had not taken
enforce payment; and, in fact, the only answer they could make was that it was im
or them to have taken such steps within the time allowed. Therefore, when the C
ame to the consideration of the amendments proposed in sections 25 and 26, he sub
propose that those sections should remain unaltered. In other words, that any person liabl w
ay should only have seven days within which payment should be made, and that the punchet
hould take action immediately after the tenth day; that would give ample time to put it
in a position to pay the chowkeedar and protect themselves from the unfortunate position
which they would be put from not being able to collect the tax within sufficient time to realiz
he amount required

BABOO DEGUMBER MITTER said that he was quite willing to withdraw such portions of
amendment as might be found to clash with any portion of the Act, or to interfere with
proper working, and only to adhere to the amendment in sections 21 and 26, providing
quarterly instead of monthly payments of the tax. He would therefore beg leave to
draw his former motion, and to substitute the following:—

In section 21 of the said Act VI of 1870, the word "quarterly" shall be substituted for the word
thly;" and in sections 21 and 26, the word "quarter" shall be substituted for the word "month,"
ver such word occurs in the said sections, and the said several sections shall be read and construed as
rds hereby directed to be substituted had been originally inserted in place of the words for which
by respectively directed to be substituted."

R. WYMAN said he thought that the remarks of the learned Advocate-General showed
conclusively the undesirability of introducing into a Bill once passed a new clause affect-
ore or less sections throughout the Bill. It almost became necessary in such cases to
the Bill back to a select committee in order that it might be carefully seen that the
tion made in one section did not affect other sections; or, if it did, that those should
carefully considered in connection with the original amendment. Although, perhaps,
proposition with regard to changing the period of payment from monthly to quarterly
ale was not in itself objectionable, yet, seeing that the principle was involved of the
er of some confusion arising in other sections, he thought it would be better to let the
tand as it is, and he would therefore oppose the amendment on that ground. Besides, if
te was made payable in quarterly instalments, it would be difficult for the punchayet to
he chowkeedar's wages month by month: if the collections were made quarterly, he did not
ow payments could be made monthly. On these grounds he would vote against the
dment.

MR. RIVERS THOMPSON said that, considering the opinions that had been expressed by the
le member who had just spoken, he might have expected the hon'ble member to have
with him at the last meeting of the Council, and allowed the Bill then to pass.
he amendment now under consideration was the amendment proposed in section 21 of
t, in which the hon'ble member on his right proposed to substitute "quarterly" for
hly," so as to secure quarterly payments of the tax in advance. As the member in
of the Bill, he wished to explain that it was from no want of consideration of the point
e Act provided for monthly instead of quarterly collections of the tax. The Bill
contained a provision for the payment of the tax by quarterly instalments. When
pr ed to the select committee there was a discussion on the question, and, if not unanim-
pro s at least by a large majority, agreed that monthly payments should be substituted
of a

ave
pay proposed quarterly collections, and the reasons given for the change were that, as the to re so small, it would tend to regularity of payments, and be rather a convenience that a agers should have to pay a monthly rate instead of larger sums by quarterly instalments. whese considerations led the committee to adopt that view, and the section was so framed hem and passed by the Council without discussion.

rechen when the new Bill was introduced to correct certain inconveniences which had an from delay in the passing of the Bill, the hon'ble member got up at the moment when The question before the Council was whether the Bill should be passed, and pressed for the i. aoduction of an amendment, not upon the Bill then under consideration, but in the Act which had been passed with the sanction of the Governor General. As the learned Advocate-General had pointed out, the amendment proposed in the 25th and 26th sections would be impracticable without entailing considerable difficulties in the collection of the tax, and as the hon'ble member opposite (Mr. Wyman) had stated, the introduction now of the amendment in the 21st section might possibly affect other sections of the law and create confusion and inconvenience. The particular objection taken by the hon'ble member would perhaps not apply, because the quarterly collections would be paid in advance, and the money for the payment of the chowkeedars' wages would be always ready. There was, however, no provision in the Act for the retention or custody of the money that would necessarily always remain in hand if a whole quarter's tax were levied in advance, and in the absence of any security for the proper application of the money, the sum, though small, would still be in the hands of some one, and there was then the risk of peculation and loss. He considered that on the whole it would be advisable to retain the 21st section of Act VI. of 1870 as it stood.

MR. SCHALCH said as a member of the committee on the former Bill, he might observe that he believed it was then agreed that all payments should be made monthly, and he retained that opinion only till the other day, when he had a conversation on the subject with the commissioner of the Presidency division, who had taken special interest in the preliminary measures necessary for extending the provisions of the Act to his division. The commissioner had urged very strongly that in his opinion, as the Act now stood, there would be very great harassment to the tax-payers if they were required to pay these small sums monthly; and from the very fact pef punchayets being required to keep elaborate accounts, much trouble would be saved by, thaving them kept quarterly instead of monthly. He pressed the subject so very strongly that one (Mr. Schalch) felt inclined to alter his opinion. He certainly felt quite inclined to give his full support to the amendment as far as it was intended to convert monthly into quarterly payments. He thought that the learned Advocate-General had shown that there was a difficulty if the amendment was carried further so as to affect the 25th and 26th sections. He believed that the object of affording a longer period of grace for the payment of quarterly instead of monthly instalments was, because, if the instalments were payable quarterly, the villages would have to pay larger sums than if they had to pay monthly; but, looking to the fact that even the quarterly instalments would not be very heavy, he thought it scarcely necessary that any further period of grace need be allowed, and that the object of the commissioner would be obtained by confining the amendment to the 21st section, and the substitution of *quarterly* for *monthly* in the 26th section.

So far from this alteration affecting, as the hon'ble member on his left (Mr. Wyman) feared would be the case, the security of the payment to the chowkeedars, it would, he (Mr. Schalch) thought, rather advance it: since the punchayet would have in their hands funds sufficient to meet the chowkeedars' wages for a quarter instead of for a month. If therefore the amendment were confined to the substitution of a quarterly instead of a monthly payment of the assessment, the object of the hon'ble mover of the amendment would, he thought, be carried out.

The substituted motion was then agreed to.

MR. RIVERS THOMPSON said that it had been brought to his notice only last week, that in the canal irrigation works in the Cuttack district the irrigation officers had found that they

were unable to get any assistance from the village chowkeedars. Persons appropriat without license or payment, and the officers of the department found that they could information from the people to enable them to discover the offenders. It was therefore that it would be better if power were given to the Government to authorise any officer, the police and magisterial authorities, to have the authority of applying to the chowkee information and securing their services. He would therefore move the introduction following section after the above:—

"In section 39 of the said Act the following clause shall be substituted for clause 6 thereof:— shall supply any local information which the magistrate or any officer of police, or any other officer there authorized by an order in writing of the Lieutenant-Governor may require;' and the said section shall be read and construed as if the said clause had been originally inserted therein, in place of the clause for which it is hereby directed to be substituted."

The motion was agreed to.

On the motion of Mr. Thompson the Bill was then passed.

RECOVERY OF ARREARS OF REVENUE.

On the motion of MR. MONEY the report of the select committee on the Bill to amend the procedure for the recovery of arrears of land revenue in respect of tenures not being estates was taken into consideration in order to the settlement of the clauses of the Bill, and the clauses were considered in the form recommended by the committee.

The Bill was settled without amendment; and on the motion of MR. MONEY the Bill was then passed.

The Council was adjourned to Saturday, the 14th instant.

Saturday, the 14th January 1871.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *presiding*.

T. H. COWIE, ESQ., *Advocate-General*,
THE HON'BLE ASHLEY EDEN,
A. MONEY, ESQ., C.B.,
A. R. THOMPSON, ESQ.,
V. H. SCHALCH, ESQ.,
MOULVY ABDOOL LUTEEF KHAN BAHADOOR,
T. M. ROBINSON, ESQ.,
BABOO JOTEENDRO MOHUN TAGORE,
T. H. WORDIE, ESQ.,

AND

BABOO DIGUMBER MITTER.

REGULATION OF LODGING-HOUSES AT POOREE.

THE HON'BLE ASHLEY EDEN moved that the Bill for the better regulation of lodging-houses at Pooree be read in Council. The Bill had, since the last meeting of the Council, been circulated, and he did not think he need say anything further as to the necessity of the measure. The principle of the Bill was that every lodging-house keeper should have a certificate from the health officer appointed by Government that his house was a fit and proper place for the reception of lodgers, and the certificate should also state the number of lodgers the house was licensed to hold. On receipt of the health officer's certificate, the lodging-house keeper would have to pay a fee of one rupee, and the magistrate would then grant a license for the lodging-house, specifying the number of lodgers the house is licensed to contain, according to the number the house is capable of containing as certified by the health officer; and a fee of eight annas each would be levied on the number of lodgers for which the license was taken out: if the house was licensed to hold ten persons, the fee for the year would be Rs. 5. It was calculated that there would be 3,168 houses taking out certificates, and that each house on the

average would take out a license for ten lodgers, for which the keeper would have to pay Rs. 5. The total collections on this calculation would amount to about Rs. 19,000, which, together with fines for breaches of the conditions of licenses, would be a contribution towards a fund which it was intended to raise for the conservancy and improvement of the town, as well as for the raising of sheds for such of the pilgrims as could not be accommodated in the licensed lodging-houses. It was calculated, however, that a much larger sum would be required for sanitary purposes, and this would be but a small contribution towards that object; and it still remained to be considered what other means could be adopted for the purpose. The question of a tax on pilgrims was under the consideration of the Government, and also a proposal was under consideration for receiving for the use of the pilgrims and for their accommodation some portion of the religious endowments which had been originally set aside for them, but which had been perverted to the private uses of the *muthdars* and keepers of shrines. These endowments represented a very considerable sum of money. That was, however, a question that did not arise on this Bill, and he merely mentioned it to show that a large sum was required, and that there was an intention to raise money for this purpose by other means.

As regards the Bill itself, he would point out that there were certain provisions in it relating to the inspection of lodging-houses and the withdrawal of licenses in cases of the breaking out of sickness or disease, or where the lodging-houses were not found fit for the purposes for which they were licensed; and by section 11 the magistrate was empowered to exempt any particular lodging-house from inspection in cases where, from the respectability or otherwise of the occasional lodgers, inspection was not deemed necessary, and where such persons would naturally, from their rank and position, resent the inspectional interference of the medical officers.

Section 13 made it compulsory on the keeper of every lodging-house to report all cases of death, grave accident, or serious illness, and some other kinds of necessary information.

There had been introduced at the end of the Bill certain provisions which were not contained in the draft submitted by the sanitary commissioner and the commissioner of the division: they merely contained sanitary clauses similar to those of some of our municipal Acts, instead of leaving all such matters to be settled by rules to be drawn up by the magistrate. Those provisions were unobjectionable, and had already been repeatedly introduced in our municipal Acts. He had also, in section 38, provided for the making of bye-laws by the magistrate with the sanction of the health officer. The question had been discussed as to whether there should not be a provision for the appointment of a town committee to whom might be entrusted the duty of carrying out the Act; but after consulting those connected with the town, he had come to the conclusion that it would be difficult to get a committee of sufficient influence and intelligence to work the Act, and it had therefore been determined to confer on the magistrate and health officer the necessary powers.

By section 40 the Lieutenant-Governor had power to extend the Act to other towns in Orissa to which pilgrims resorted. In some of those places the state of things was almost as bad as at Pooree in regard to sanitation, and he believed it was intended to extend the law at once to Jajpore.

Mr. Money said there were one or two remarks that had suggested themselves to him with reference to one portion of the Bill. He observed from a memorandum by the commissioner of the division that the plan for licensing lodging-houses was but a part of a regular scheme for the sanitation of the town of Pooree; and though he thought that the Bill, so far as it went, was one that ought to receive support, he would be glad to have an assurance that another measure, which formed a component part of the scheme sketched out, would also be carried out. The commissioner, after recommending that the proposed measure for the licensing of lodging-houses should be passed, went on, in paragraph 11, to speak of extra accommodation for those pilgrims who could not be accommodated in the licensed lodging-houses: and on looking at the subsequent part of the memorandum, viz. paragraph 17, he

found the commissioner speaking as follows of what would be the result of the pressure necessary for the establishment of serais along the road to Pooree:—

"The house-holder and petty shop-keepers in these road-side villages are for the most part poor. They have no capital to build better accommodation, and if they were hard-pressed by local authorities and made conform to the strict rules and regulations of the Serais' Act, the probable result would be that they would vacate and leave the village with less actual shelter than it had before."

It appeared to him (Mr. Money) that it was very possible that a result of the same kind would take place in Poorce, and that only a small proportion of the pilgrims would find accommodation in the licensed lodging-houses. The memorandum of the commissioner did not give detailed information of what the number of pilgrims was; but he says—

"There are estimated to be about 6,336 houses in Poorce, and about 25,000 resident inhabitants. The probable average number of pilgrims is estimated to be about 50,000, though I think this is below the mark We have no recent statistics, but between the years 1816 to 1829 the attendance of pilgrims was between a minimum of 66,000 and a maximum of 161,000, or a rough average of 125,000"

The commissioner then supposes that one-half of the house-holders would take out licenses for lodging-houses, and that such houses would accommodate an average of ten lodgers to each house. If the figures are reliable, this would give a total of 31,680 pilgrims provided for; whereas it was stated that the average number of pilgrims was 50,000, and that that was a low average. It seemed to him (Mr. Money) therefore that it would be desirable for the Council to know that in connection with this Bill it was intended to provide some accommodation for those pilgrims who would under the operation of this Bill lose a portion of the shelter, however bad it might be, which they now had.

The Hon'ble Ashley Eden said that he believed he had already stated that one of the objects of the Bill was to obtain funds for the purpose of erecting sheds for the accommodation of those pilgrims who could not be accommodated in the lodging-houses licensed under the Bill; and a perusal of the report of the sanitary commissioner would show that one of the chief points of the scheme was to provide proper accommodation, not only at Poorce, but on the road leading to the town. In the memorandum of the commissioner of the division there was a long detailed list of the places at which it was proposed to provide such accommodation. Some of these had indeed already been erected by private munificence, and something had been done during this year to provide accommodation for pilgrims during the festivals.

With reference to the apprehension expressed in regard to the deficiency of accommodation under the Act, it was true that it was stated in the commissioner's memorandum that probably 50,000 was a low average of the number of pilgrims that annually resorted to Pooree, and that the estimate showed that 30,000 only would be provided for in the licensed lodging-houses, yet he (Mr. Eden) thought it was a great mistake to suppose that 50,000 pilgrims congregated at Pooree at one and the same time, and that the requirements for the accommodation should be based on any such calculation. What was meant was that 50,000 pilgrims visited Pooree during the year. Although, no doubt, the greater number of these pilgrims were there during a particular part of the year, there was no reason to suppose that the whole 50,000 were there actually at the same time. There were several religious festivals held at Pooree, and many of the pilgrims only remained for a few days, moving on to other shrines, others taking their place. However, as he said before, it was intended, if possible, by the means to which he had alluded, to provide such accommodation as would be required in addition to the lodging-houses to be licensed under the Bill.

The President said, the fact that the whole number of pilgrims were not present at the some time would be seen if hon'ble members would turn to pages 10 and 11 of the second Part of this Blue Book (Report of the Sanitary Commissioner for Bengal on the pilgrimage to Juggernath), where it was mentioned that in 1864-65 the attendance at the great festival was 40,000, and in the following year 45,000, that since the number had been decreasing,

and that there was a tendency to decrease, and Dr. Smith gave it as his opinion that the *annual* attendance at Pooree was not more than 50,000.

The motion was then agreed to, and the Bill referred to a select committee, consisting of Mr. Schalch, Baboo Digumber Mitter, Moulvy Abdool Luteef, and the mover Mr. Eden, with instructions to report within three weeks.

DRAINAGE AND IRRIGATION OF DISTRICTS.

The HON'BLE ASHLEY EDEN moved that the time prescribed for the submission of the report of the select committee on the Bill to facilitate the drainage and irrigation of districts in Bengal be extended for three weeks. He said that the period within which the committee were instructed to submit their report, three weeks, had now expired. On going through the Bill the committee found great difficulty in settling the working details, and had to recast the Bill and alter its scope so as to make it entirely a local Bill applicable to particular swamps in the Hooghly district. He hoped that the committee would be able to report within ten days more, and therefore asked for an extension of three weeks.

The motion was agreed to.

The Council was adjourned to Saturday, the 28th instant.

Saturday, the 28th January 1871.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *presiding*.

T. H. COWIE, ESQ., *Advocate-General*,
THE HON'BLE ASHLEY EDEN,
A. MONEY, ESQ., C.B.,
A. R. THOMPSON, ESQ.,
V. H. SCHALCH, ESQ.,
MOULVY ABDOOL LUTEEF KHAN BAHADOOR,
T. M. ROBINSON, ESQ.,
F. F. WILLIAMSON, ESQ.,
BABOO JOTEENDRO MOHUN TAGORE,
T. H. WORDIE, ESQ.,
AND
BABOO DIGUMBER MITTER.

RECOVERY OF LAND REVENUE IN ASSAM.

MR. RIVERS THOMPSON, in moving for leave to bring in a Bill "for the recovery of land revenue and the mutation of names in Assam," said he would explain briefly the circumstances which made necessary a recourse to legislation on this subject. It had been for some time under the consideration of the Government to frame rules for the revenue administration of the Assam [illegible]. In Assam the whole proprietary right in the soil might be said to be vested in [illegible]ment, and the system in force since our acquisition of that province had been to make annual settlement directly with the ryots for the lands in the villages occupied by them. For making these settlements, as well as for collecting the Government demands, a class of agents termed "mouzadars" were employed in every district, who did not necessarily hold any interest in the soil themselves, but who were employed much in the same manner as tehsildars in the north-west provinces, in arranging for the settlement of villages and in the realization of the Government revenue. For such duties they received a percentage on the collections made by them on behalf of Government. These mouzadars were either in charge of a single village, if the village was a large one; or of a circle of villages, if the villages were small. As far as he (Mr. Thompson) understood, the practice had been, on the occurrence of a default in the payment of revenue, for the mouzadar to report the circumstances of the case to the district officer, who thereupon proceeded to summon the defaulter, and after a certain allowed time if the money was

not paid in, to attach the property of the defaulter, or to arrest and imprison him. There was reason to believe that under the light assessment which prevailed in Assam, the Government demand was punctually settled, and resort to such measures had very seldom been found necessary. It might, however, be noted that the procedure under which the authorities acted in cases of arrears of revenue, even if it was uniform throughout the province, had this defect, that it had never received the sanction of the legislature, and was merely followed out under rules of practice which had been in force for many years.

This was ascertained more precisely on the Lieutenant-Governor's recent visit to Assam, when the general rules submitted by the commissioner for the revenue administration of the province received the sanction of the Lieutenant-Governor as being passable by the executive Government. These referred generally to the appointment and removal of the mouzadars, the procedure in making the yearly settlements, and the determination of the rates of assessment. It was, however, pointed out to the commissioner that the practice under which, in default of payment of the Government demand, recourse was had to fine and imprisonment, could not be enforced without law. Accordingly a reference was made to the local officers, and to the rules prepared by the commissioner and revised by the Board of Revenue, embodying with some slight modifications the procedure now in force, it was proposed to give legal sanction by an Act of this Council. Occasion had been taken, on the recommendation of the local authorities, to add to the Bill certain sections, prescribing the course to be observed in cases connected with the mutation of names. It was found to be a not uncommon practice for a ryot to resign his holding during the currency of a settlement without giving any notice to the district officers. Also, on the occasion of the death or absence of a ryot, other persons came forward to take possession of the vacated lands and in many instances without any right to do so. It was therefore thought proper to legalize by registration all transfers of holdings which a ryot might wish to relinquish, and provision would be made on the subject in the present Bill.

If leave was given to bring in the Bill, he would take an early opportunity to explain the form which it was proposed to give it.

The motion was agreed to.

RECOVERY OF FINES.

Moulvy Abdool Lutelf moved for leave to bring in a Bill "to facilitate the recovery of fines imposed in Bengal." In doing so he said he begged to state the circumstances under which he was induced to propose the introduction of the Bill, and the objects proposed to be attained by the same. By section 4 of Act V of 1867 of this Council, passed on the 30th of May of that year, the provisions of sections 65 to 70 of the Indian Penal Code, and of section 64 of the Code of Criminal Procedure, were made applicable to all fines which might be imposed under the authority of any Act thereafter to be passed by this Council, but the provisions of the sections of the Penal Code which he had mentioned were not made to apply to fines imposed under the authority of any Act the Council passed previously to the passing of that Act. His object was to get an Act passed by which this difficulty might be removed, for as he would presently explain, considerable difficulty had been experienced by judicial and executive authorities in enforcing penalties imposed under the authority of Acts passed previously to June 1867. As an illustration, he would mention that the municipal commissioners for the suburbs of Calcutta had found it exceedingly difficult—nay, almost impossible—to carry out the provisions of Act VII. of 1865 for the better regulation of slaughter-houses. The result was that the Act in question had proved perfectly powerless. That Act provided penalties on persons using as a slaughter-house places not licensed as such, and so forth. It had been found that two of the largest slaughter-houses in the suburbs, which were the property of wealthy men, had been given on leases to men of straw, and these latter were held to be the parties who were actually using them within the meaning of that Act. The

men had applied for licenses and had been refused; but notwithstanding such refusal they had, in defiance of the law, been openly using these slaughter-houses, and on being convicted for a breach of the provisions of the Act and sentenced to pay heavy fines, it was found that they had no movable property which could be distrained and sold for the recovery of the fines under the provisions of section 61 of the Code of Criminal Procedure, which was the only means provided for the realization of such fines, and the result was that the slaughter-houses in question were to the present moment carried on in full vigour in open defiance of the law, for the law was quite incapable of enforcing its penalties.

It seemed useless to pass an Act and make a breach of its provisions punishable by fines if there be no means to enforce the penalties attached to the offence. He thought that this difficulty would be met by passing a short Act of the nature he had proposed, and he therefore begged to move for leave to bring in this Bill.

The motion was agreed to.

The Council was adjourned to Saturday, the 4th February.

Saturday, 4th February, 1871.

Present:

His Honor the Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble Ashley Eden,
A. R. Thompson, Esq.,
V. H. Schalch, Esq.,
Moulvy Abdool Luteef Khan Bahadoor,
T. M. Robinson, Esq.,
Baboo Jotindro Mohun Tagore,
and
Baboo Digumber Mitter.

RECOVERY OF LAND REVENUE IN ASSAM.

Mr. Rivers Thompson moved that the Bill to provide for the recovery of land revenue and the mutation of names in Assam be read in Council. He said that the Bill had been prepared from the rules which now regulated the procedure for the recovery of the land assessment in Assam, and they had been amended and revised by the Board of Revenue. The Bill provides that ample time shall be given to defaulters for the payment of their dues before procedure was taken against them on account of their default. If after the month's time allowed for paying in arrears the money had not been paid, measures could be taken by attachment and sale of the defaulter's property, movable and immovable, and then, if necessary, by the arrest and imprisonment of the defaulter for a period not exceeding fourteen days. Special provision had been made for the case of a fraudulent concealment of property, and there was also a section which provided that nothing in the Act should apply to suits between lakheradars and other private land-owners and their tenants. The Bill simply provided for cases where Government ryots owing Government revenue were in the position of defaulters.

Certain sections in the Bill provided for the registration of holdings in cases of transfer either by sale or death, or from any other cause. This provision was intended to provide against cases of not unfrequent occurrence of persons transferring their rights to others who had no right to hold them.

There were a few sections at the end of the Bill relating to remissions of revenue and the punishment of mouzadars for neglegence of duty or disobedience of orders, which it was deemed advisable to incorporate in the measure.

These rules were now in operation in Assam; and the fact was, as he had said before, that cases of default very seldom occurred, and recourse to any form of penal procedure very seldom

became necessary. But as the procedure was connected with punishment, the imposition of fines and imprisonment, it had been thought advisable that they should be enforced under the authority of an Act of the Legislature.

Baboo Jotendro Mohun Tagore said he begged to draw attention to certain sections of the Bill which seemed to enunciate a principle which might be exercised very harshly towards defaulters. The Bill proposed to give a power to arrest defaulters after both their real and personal property had been sold for arrears of revenue, and then to incarcerate them for a period of fourteen days even where there was no fraudulent concealment of property. This, he thought, was too harsh a measure: after a man was sold out of his hearth and home, it was very hard to incarcerate him for fourteen days. It was true that by Act VIII. of 1869 of this Council certain powers were given in cases where ryots became defaulters: but if a ryot, by a verified application, pleaded insolvency, he was at once let off. Under this Bill, however, the ryot would have no means of getting off before the fourteenth day of his incarceration.

Mr. Schalch said, after what the hon'ble member opposite had observed, he would beg leave to state that, under the present law for the recovery of rents, there was given a power to arrest a defaulter previously to the attachment of his property, or subsequently. In the present case the concession was made that no arrest should be made until it was certified that the property, both movable and immovable, was insufficient to meet the demand. He was not present during the passing of the new rent law, having been in England at the time, and he was not therefore quite conversant with its provisions; but on looking over it he did not see any provision necessitating the immediate release of a defaulter on proof of his insolvency. No doubt if insolvency was proved, the fact would be taken into consideration, and he had no reason to suppose that greater harshness would be exercised towards defaulters in the recovery of revenue in Assam than elsewhere.

Baboo Jotendro Mohun Tagore said he would take leave to explain what he had meant as to the rule relating to the insolvency of a defaulter. The rule to which he referred was not in Act VIII of 1869 of this Council; but it was a rule that he believed would be enforced in accordance with the procedure of Act VIII. of 1859, the Civil Procedure Code. The Bengal Act VIII. of 1869 enacted that what was not provided for in that procedure should be regulated according to the procedure prescribed by Act VIII. of 1859, and under that provision he thought a defaulter might be released on proof of his insolvency. Then as to the provision of the rent law giving power to arrest a defaulter before attachment of his property, he would submit that that was different from what the present Bill contemplated. The object of that provision evidently was to apply an additional pressure for payment on one who was possessed of property, whereas this Bill proposed to put a man in jail after reducing him to a state of absolute pauperism.

Mr Rivers Thompson said that the observations that had been made would be duly considered by the select committee, to whom the Bill would be referred, when that particular section came under their consideration. In a province like Assam, where they had to deal with a large body of ryots, each paying a small amount, he thought it would not be advisable to introduce all the technicalities of a procedure applicable to a more advanced people, or to a complicated system of land tenure. If a ryot was in such a position that every thing he had to be sold, the Government officers, in their own interests and in the interests of the public, were not likely to incarcerate him for fourteen days, because they would have to incur the expense of maintaining him in prison; and he (Mr. Thompson) thought we might safely leave a matter of this kind to the discretion of the local authorities. As he had said before, if there was really any thing harsh in the procedure proposed, he had no doubt the subject would meet with due consideration at the hands of the select committee.

The motion was then agreed to, and the Bill referred to a select committee consisting of Mr. Schalch, Baboo Digumber Mitter, and the mover Mr. Thompson, with instructions to report within six weeks.

RECOVERY OF FINES.

MOULVY ABDOOL LUTEEF moved that the Bill to facilitate the recovery of certain fines imposed in Bengal be read in Council. In doing so he said he begged to state that as he has already explained the objects and reasons for the introduction of the measure, he would not detain the Council with any further observations on this occasion, with the exception of one or two words. In the first place, he thought that the same principle under which the provisions of sections 63 to 70 of the Indian Penal Code had been extended to all fines imposed under the authority of Acts passed by this Council after the 30th of May 1867, as provided for in Act V. of 1867, was equally applicable to fines imposed under the authority of Acts passed prior to that date; and he could not understand why there should be a difference between the two. What is good and necessary in the one case should undoubtedly be so in the other. And he did not see any objection to the provisions of the said sections of the Penal Code being made applicable to all fines imposed by Acts of this Council previously passed.

In the second place, he found that there had been great many discussions at the meetings of both the justices of the peace for the town of Calcutta and the municipal commissioners for the suburbs as to the total failure of the Act passed by this Council for the better regulation of slaughter-houses, and both those corporations have resolved upon addressing the Government with a view to an amendment of the said Act, so as to enable the authorities to enforce its provisions, which they at present were utterly unable to do. He was, however, of opinion that if the Bill which he begged to propose was passed, it would effectually remedy the defect in the Act in question, and there would be no necessity whatever for amending it.

With these remarks he begged to move that the Bill be read in Council.

BABOO DIGUMBER MITTER said that the object of the present measure appeared to be to make fines, which under the existing law can only be enforced by sale of the movable property of the offender, commutable to imprisonment if the fine be not realized by the distress. He did not question that some of the existing provisions might have been found defective, or might have failed in their object. If those laws required amendment, let them by all means be amended in due form after sufficient publication. But he respectfully objected to the punitive provisions of one Act being set aside, altered, or modified, without due regard being had to the nature of the offences which they were intended to meet. If such a course were adopted, there was no knowing what serious alterations might be made in the existing body of law without the public being at all aware of it.

MOULVY ABDOOL LUTEEF said he thought that if the Bill was referred to a select committee they would be in a position to consult all the Acts which would be affected by this Bill, and to see if there was any thing in any of them which would not justify the extension of this Act. He thought that was a matter of detail which could very easily be done by the committee.

The motion was then agreed to, and the Bill referred to a select committee consisting of the Advocate-General, the Hon'ble Mr. Eden, and the mover Moulvy Abdool Luteef, with instructions to report within a month.

The Council was adjourned to Saturday, the 11th instant.

Saturday, the 11th February 1871.

Present:

His Honor the Lieutenant-Governor of Bengal, *presiding.*

T. H. Cowie, Esq., *Advocate-General,*
The Hon'ble Ashley Eden,
A. Money, Esq., C.B.,
A. R. Thompson, Esq.,
V. H. Schalch, Esq.,
Moulvy Abdool Luteef Khan Bahadoor,
F. F. Wyman, Esq.,
Baboo Joteendro Mohun Tagore,
T. H. Wordie, Esq.,
and
Baboo Digumber Mitter.

REGULATION OF MARKETS IN CALCUTTA.

Mr. Schalch moved for leave to bring in a Bill for the better regulation of marke Calcutta. In doing so he said that for a very considerable time back great dissatisfac had been expressed at the present system for the supply of food, meat, and vegetables the use of the town. This feeling became so strong some years ago, that a meeting held in the Town Hall, he thought even before the constitution of the present municipa on which occasion the subject was brought before the public. At that meeting the in venience and evils attending the present condition of the markets were fully brought forw and appeared to have been enlarged upon. However, that meeting seemed to have no further. But the practical result was to bring the matter more prominently before public. In 1863 the present municipality was constituted, and one of its first acts wa place all the markets in the town under the supervision of the health officer, to whom assigned an establishment for the purpose. Through the health officer's influence with owners of the markets, considerable improvements were effected in some of the sm markets; but in the larger markets, especially in the Dhurrumtollah market, very l indeed had been done. This might be due, in some measure, to the owner not having fear of competition before his eyes: still more it seemed to be due to the manner in w the bazar was constructed, which prevented any real reform being effected without, in demolishing the whole building and building it up again on a totally different plan. of course would involve serious expenditure, and it was not surprising that the ov should have not undertaken it. It seemed, therefore, that but little could be done in way. When he (Mr. Schalch) was chairman of the municipality, he brought the ma before the justices at a meeting held in January 1866, and a resolution was then passed a sum of Rs. 1,000 a year be allotted out of the surplus income of past years towards purchase of a site and for the construction of a municipal market. This resolution passed, he believed, by a considerable majority and forwarded to the Government at time. The sanction of Government to that proposition was subsequently given, and th seemed in good train for the construction of a market. Shortly after this he left municipality, and the attention of his successor was necessarily so much taken up in important works of the drainage and water-supply of the town, that the matter was allo to remain in abeyance. It was afterwards again brought forward, but there seemed t some considerable opposition to the project, and a desire not to interfere with vested rig and the matter was not carried out. However, public attention had been directed to condition of the existing bazars, and many complaints were made on the subject, so n so that the present chairman, Mr. Hogg, again brought the matter before the justice a very large and influential meeting which was held during the last month. At that mee a resolution was passed which led to the chairman addressing the Government of Be

on the subject. The shorter way to explain matters, he thought, would be to read out a portion of that letter, which was dated the 16th January last. The chairman of the justices there said :—

"At the quarterly meeting of the justices held to-day, the expediency of establishing a municipal market, and the measures which should be adopted to effect this object, were very fully discussed, and I now have the honor to submit, for the consideration of the Lieutenant-Governor of Bengal, the opinion and recommendations of the justices on this important subject

"2. At present there are only two markets where Europeans can obtain supplies from—namely, the Dhurrumtollah and the Tiretta Meat and provisions of superior quality are sold only at Dhurrumtollah, and this is the market from whence nearly all the higher classes of Europeans have their table supplied. It is situated at the corner of Chowringhee Road and Dhurrumtollah Street, on all sides it is surrounded by houses, and the area devoted to the market is altogether insufficient and inadequate for the requirements of the public. The market, moreover, is most defective in the important point of ventilation, and the stalls and buildings therein are so low and small as to be altogether unsuited for the sale of provisions. Owing also to the confined space and defective structure of the buildings, it is quite impossible to carry out any proper and efficient conservancy arrangements. The consequence is, that the market presents a most uninviting appearance, and the odours emanating from it are most offensive.

"3. For the reasons above stated, the justices are almost unanimously of opinion that a suitable first-class market is a crying and imperative want, which should be provided for by the corporation. However, as under the existing Municipal Acts, the corporation is not empowered to construct a market, the justices are unable to take any steps in the matter unless the Lieutenant-Governor of Bengal will be pleased, by legislative enactment, to confer on the corporation such powers as shall enable them to do all acts necessary for this purpose.

"4. Should the views of the justices in this matter receive the support and approval of the Lieutenant-Governor of Bengal, the justices trust that His Honor will allow the Act also to embrace provisions enabling the justices to exercise an efficient control over all existing markets, which object might be best secured by empowering the justices to make bye-laws, subject to confirmation by the Lieutenant-Governor, for the regulation of all bazars, and also prohibiting any building or place being used as a public market until the owner shall have obtained a license from the municipality By this proposal it is not intended that the justices shall be empowered arbitrarily to close any existing market, but simply to enable the corporation to insist on the proprietors of existing markets abiding by the bye-laws which may be passed to regulate the conservancy arrangements of all markets.

"5. As regards the measures necessary to enable the corporation to raise funds for the construction of one more market, the justices suggest that the proposed Bill shall authorize their raising capital by the issue of debentures, or otherwise, on the security of the markets which they may decide on constructing, and on the collateral security of the rates and taxes; it being provided in the Act that all existing debenture-holders shall have the first lien on the rates and taxes now in force."

The letter went on to explain the scheme which was laid before the justices, with which however, he (Mr. Schalch) need not trouble the Council, and concluded by expressing the hope that the Lieutenant-Governor would lay the matter before the Government and move it for the grant of a loan for the purpose. This letter was forwarded to the Government of India with an expression of the opinion of the Lieutenant-Governor supporting the proposition, and stating that as to the question of the extension of the power of the justices to borrow money, His Honor would be prepared to introduce a Bill into the Bengal Council if the Governor General in Council would grant the loan. These papers were forwarded to him (Mr. Schalch) with a request that he would lay the matter before the Council.

It would be observed that the justices now made three requests: *first*, to enable them to purchase land for the construction of a municipal market; *secondly* to raise the necessary sum by the issue of debentures on certain conditions; and *thirdly*, to have greater powers placed in their hands for the regulation of the existing markets. With the permission of the Council he would say a few words on each of these points.

It would almost appear from the previous action of the municipality that they considered that they had full powers under the Act to construct a market. Looking to the Act itself there appeared nothing very explicit on the subject, and although there was nothing in the Act against their constructing a market, as the justices had to come to the Council for power to raise fresh debentures, it would, he thought, be as well for the Council to settle the

question definitely. On the question as to whether it was expedient to grant these powers or not, he thought it would rest entirely on the question as to whether the existing markets were fit places for the purpose. If new markets were required, he thought there was no body better suited for the purpose of the establishment of a market than the municipality. As to the state of the existing markets, he would read to the Council extracts of a letter from Dr. Macrae, the then officiating health officer of the municipality. Dr. Macrae was too well known to most of the members of the Council for it to be necessary to make any remarks as to his character, and he (Mr. Schalch) was sure that what was said by Dr. Macrae would have great weight with the Council :—

"I would beg to record my protest against the continuance of the Dhurrumtollah bazar in its present condition. Adequate as it may have been for the wants of the European community forty years ago, when their numbers were a tithe of what they are now, it is in every single respect unfit and inadequate for the wants of the present day. It has not one qualification for a market-place. It has no ventilation, being surrounded by buildings having only small gates of entrance, through which no current of air can find a passage. As a result, at any hour of the day or night the atmosphere is foul and tainted. It is infinitely too small, the frequenters of it being hustled and crowded while making their purchases. The flooring is in great part earth, never washed, but saturated with drippings from the stalls, which likewise are rarely or ever washed. I will say nothing of many abuses which have come to my knowledge, which, if generally known, would tend to convert the European into a vegetarian. I have striven vainly to correct them; but unless the holders of the bazar are directly subject to the orders of the municipality, these disgusting practices cannot be restrained."

He would ask any member of the Council to spend half an hour in the Dhurrumtollah bazar, and he (Mr. Schalch) was quite sure that any member who did so would be satisfied of the want of ventilation, cleanliness, and arrangement in the market, and the dense crowd which prevailed there. No doubt, when first constructed, the market might have been well suited to the requirements of the town. Since then the European population had largely increased, and such a visit would, he believed, satisfy the most sceptical of the necessity for a new bazar. As he had said before, the construction of a new bazar could best be carried out by the municipality, on the understanding that the expenditure incurred for the purpose should involve no risk to the municipal fund. The justices had expressed a decided opinion on that point. They said in the letter to which he had previously referred—

"Although the justices propose that the rates and taxes should be offered as collateral security for market loans, they have little doubt that the rents derived from a municipal market, when once established, will be fully sufficient to meet, not only the interest on the capital expended, but also to provide a reasonable sinking fund to liquidate the loan raised for the cost of the market."

That was a subject which might be safely left for their consideration and discussion. He thought the justices were fairly entitled to have the power they seek placed in their hands, and in the Bill he asked leave to introduce he proposed granting them that power.

On the second question, as to the issue of debentures, it had been urged that it was unfair to issue debentures on the security of the general funds for works the benefits of which would be derived by Europeans only. He would altogether dispute that point; for not only would Europeans derive benefit from the construction of a municipal market, but also the several mixed classes that were to be found in the city. When properly constructed and properly arranged, the market would be largely resorted to by the Mahomedan community, and the day, he thought, would not be long distant when the Hindoos themselves would go to the market for what they required. It would probably be urged that their religious feelings and prejudices would not allow them to make their purchases there, but he thought that in such matters convenience would predominate over feelings and prejudices. We all know what was said on the construction of railways in this country, and how the more respectable Hindoos would refuse to avail themselves of them on account of the commingling of the different classes. He would ask anybody to visit the railway station at Howrah, and he would find Brahmins in hundreds there cheek by jowl with people of all castes. We were told also in regard the city water-supply that it was an iniquitous thing to tax the general community for

work which a large portion of the people, the Hindoos, would not use. He had great pleasure in stating that a friend of his, a native of great influence, had told him that he was extremely glad that the water-supply scheme had been completed. He said that it had proved of great benefit to the Hindoo community, and especially to the poorer classes. Another native had told him that the water was used by the Hindoos for every purpose except for the service of their gods, and that even that prejudice would soon cease.

He (Mr. Schalch) thought that if it had been found that the plea had proved futile in these two cases, we might be quite sure that if a market was constructed and established on a proper system, and if a good article was sold there at a cheap rate, the Hindoos as well as the other classes of the community would resort to it. Besides this, we already had a precedent in what the municipality had done in the case of public necessaries, which were formerly in so filthy a state that he would not disgust the Council by attempting to enter into a description of their details. They were taken up by the municipality and organized on an entirely different plan, and this had been done at the very large cost from the general municipal fund of over two lakhs of rupees; but the interest of that cost had been more than reimbursed by the receipts from these improved public necessaries. Now, these necessaries were constructed, not for the benefit of the whole town, but only for a limited portion of it, and yet it could not be denied that the money had been well and properly spent, though for the immediate benefit of a portion of the community only. The same argument would apply to money spent for the construction of a market even if primarily conducive to the benefit of a portion of the town.

He now came to the consideration of the third question, in which the justices had asked for increased powers for regulating markets. But here he found some difficulty. He found on referring to the existing Acts, that by certain sections of Act VI. of 1863 the justices could at present ensure the proper drainage of and supply of water in the existing markets. They could also, under a subsequent section, make bye-laws for the inspection of all markets, the management and conduct of business therein, and for keeping the same in a cleanly and proper state, and for removing filth therefrom. By another section they had power to inspect all articles of food, and if they found any article unfit for human consumption, they could have it confiscated and destroyed; and, further, by a later Act (VI. of 1866) they had power to direct the widening of the passages of bazars. With these powers, which they already possessed, and without any assertion on the part of the justices in what respect these powers were insufficient, he would decline to grant them the larger powers they sought. They wanted that each existing market should have a license, and if the owners did not observe the existing laws and bye-laws, that the license should be withdrawn. This seemed a rather harsh measure, because the existing laws and bye-laws had certain penalties attached to their non-observance; and he thought it was better to increase, if necessary, those penalties, than to attach to them a secondary punishment far greater than what those penalties involved. In the case of the new bazars it would be necessary that the parties proposing to bring them into use should first have a certificate from the health officer and the engineer of the justices to show that the place proposed to be opened as a bazar was properly constructed and suitable for the purpose; because, when a bazar was once established, it was difficult subsequently to make any necessary alterations. He had therefore in the Bill limited the power of the justices to the compulsory grant without fee of licenses to the existing bazars merely for the purpose of having a record of the owners in the justices' books, so that it might be known against whom they could proceed to enforce penalties for breaches of the bye-laws, but without power to revoke or recall such licenses.

There was not, he thought, any other subject to which he need now draw the attention of the Council, and he therefore begged to move for leave to bring in the Bill.

The motion was agreed to.

HOWRAH BRIDGE.

THE HON'BLE ASHLEY EDEN moved for leave to bring in a Bill for the construction of a bridge across the river Hooghly between Howrah and Calcutta. He said that for very many years the question of the connection of the two banks of the river had been under consideration. A number of schemes had been brought forward and considered: it had been discussed whether there should be a permanent bridge, whether it should be a railway bridge connecting the termini of the two railways in a central position in the town, whether it should be a floating road bridge, and so forth, discussions with which he would not trouble the Council. For reasons that had already been published, the Government of India had determined, at all events for the present, that it was not necessary to spend half a million in making a permanent bridge across the river. There seemed to be an objection to expend so large a sum of the imperial revenues for what the Government of India holds to be a local purpose, as under the view taken by that Government a bridge seemed to be required much more for local traffic than the through traffic of the country. It had been argued by the commission appointed to consider the question of constructing a floating bridge, that the local passenger traffic was five times as great as the railway traffic, and therefore the demand for facility of communication across the river was quite as much for local purposes as for the convenience of the country at large. Adopting this view, a floating bridge was, in the opinion of the Supreme Government, all that was required for the present. It was therefore determined at once to construct a floating bridge between Calcutta and Howrah, and a contract had been entered into with Mr. Bradford Leslie, an eminent engineer, for the construction of such a bridge, at a cost not exceeding £150,000, to be completed by the beginning of the year 1873. But as to the merits of the respective schemes, it was not necessary to take up the time of the Council.

What remained to be done, and what the Council was asked to do, was to pass a legislative enactment for the purpose of giving effect to this scheme for a floating bridge, which would remove any legal difficulties that might arise in carrying out the work, and keep the Government free from all liability in regard to accidents arising from the construction of the bridge and the consequent restrictions to navigation and traffic, and also for determining the necessary arrangements for securing the levy of tolls and the re-payment of the Government advance. The proposal now under consideration was that the collection of the tolls should be to some extent entrusted to the East Indian Railway Company, and that they should, on behalf of the Government, levy a certain small increased rate, very slight indeed, on goods and passengers coming to their station, and the bridge would therefore be practically free to all persons between the two stations. Beyond this there would be a certain amount of local traffic on which a small toll would be levied, probably not more than was now paid by passengers for the very much more dangerous and inconvenient means of crossing now available.

The bridge would be constructed with Government capital, and the question would remain for consideration how the affairs of the bridge should eventually be administered. It was proposed at present that the Bill should be drawn so as to meet any one of these three courses; either that the bridge should remain in the hands of Government officers, the Railway Company collecting the dues and tolls of the railway portion of the traffic, in which case there would be very little indeed for any one else to do. The next course was to make over the bridge to the present port fund commissioners; the third course was that the bridge should be made over to a board of trustees, to whom its affairs would be entirely entrusted. It was proposed, as said before, by the Bill to leave this question open to future adjustment. The Bill could be so drawn as to enable the Government to make over the bridge at any time that they were prepared to do so to a board which would collect the tolls and pay back to the Government the money advanced for the construction of the bridge by means of a sinking

fund, very much on the principle which had been followed in the case of the Port Improvement Act.

He did not propose to go into the details of the Bill to-day He hoped in the course of next week to circulate the Bill to members of the Council, and on that occasion he would explain its provisions.

The motion was agreed to.

The Council was adjourned to Saturday, the 18th instant.

Saturday, the 18th February 1871.

Present:

His Honor the Lieutenant-Governor of Bengal, *presiding.*

T. H. Cowie, Esq., *Advocate-General,*
The Hon'ble Ashley Eden,
A. R. Thompson, Esq.,
V. H. Schalch Esq.,
Moulvy Abdool Lutteef Khan Bahadoor,
T. M. Robinson, Esq.,
Baboo Joteendro Mohun Tagore,
T. H. Wordie, Esq.,
and
Baboo Digumber Mitter.

CENSUS OF BENGAL

The Advocate-General said, although the motion in his name stood second on the list, he would take leave to move it first, as he had but a few observations to address to the Council on the subject. The motion was for leave to bring in a Bill to enable the Lieutenant-Governor to take a census of Bengal. With reference to the title of the Bill, as a Bill to enable the Lieutenant-Governor to take a census of Bengal, he would observe that, in his opinion (and he thought it stood to reason that it must be so), the taking of a census was essentially an administrative act, and the only necessity for legislation was to enable the administrative Government to carry out such details as might be thought necessary for effecting the object proposed. He thought it unnecessary on the present occasion to urge on the Council observations regarding the extreme desirability, if not the necessity, of obtaining accurate and complete information of the number and distribution of the present population of Bengal. He would confine himself on the present occasion to indicating very briefly what were the leading principles of the measure which it was proposed to introduce.

The three matters of principle which were involved in the measure, and which he would briefly describe, were these: The first was that, with a view to uniformity of system in the different districts, the general superintendence and carrying out of the census should be committed to the registrar-general. With regard to that, as also with regard to the other main principles involved in the Bill, communications had been received from most of the commissioners, collectors, and officiating collectors throughout Lower Bengal; and he should only now say that the general result of these communications, subject in various instances to criticisms of particular portions of the proposed measure, was in favour of the suggestion that the general superintendence of the census should be placed in the hands of the registrar-general.

Then the next point involving a question of principle was this, that the immediate and practical carrying out of the enumeration should be placed in the hands of the collectors of district, and not in the hands of magistrates. The Bill would propose that power should be given to the collector to appoint the necessary enumerators for his district, and he would of course have a general supervision over these enumerators; and it would be the duty of the collector to see that the enumerators carried out the objects of the Bill by collecting information from the population individually, according to certain specified forms which would be issued from the registrar-general's office, and with the sanction of the Government.

The third and only remaining question of principle which he thought it necessary to bring before the Council upon this occasion was that it was also proposed that the duty, which otherwise would be vested in the collector, of appointing enumerators and seeing by way of supervision that these enumerators performed their duties, might be delegated by the collector to the proprietorr of estates, that is, to the zemindars who paid revenue directly to the Government; and it was also proposed that it should be compulsory on the zemindars in such cases to undertake and perform the duty of appointing enumerators and supervising the carrying out by them of the objects of the Act.

These were severally matters of importance (to say nothing of matters of detail for the present) which he thought would require much consideration, and in regard to which, after he had obtained leave to bring in the Bill, and when he would move the first reading, it was his intention to comment and enlarge somewhat more. Should he obtain leave to move the first reading of the Bill, it would be introduced in a shape in some not unimportant respects different from the rough draft which he had before him. At present he did not think it necessary to say more than to indicate what appeared to be the general principles of the Bill as regards the authorities, or rather various authorities, to whom was to be entrusted the duty of effectually carrying out the object desired, namely, of taking a census of the population.

The motion was agreed to.

SURVEY OF STEAM VESSELS.

MR. RIVERS THOMPSON moved for leave to bring in a Bill to increase the fees for the survey ofsteam vessels. He said that the Acts relating to the survey of steam vessels in the provinces subject to the jurisdiction of the Lieutenant-Governor of Bengal were Acts V. of 1862 and I. of 1868 of this Council. Provision is made for the remuneration of the surveyors appointed by means of fees as given in the schedule annexed to Act V. of 1862; and by section 10 of the said Act it is enacted that, for every survey of a steam vessel, the owner or master should pay a fee calculated on the tonnage of the vessel according to the rates in schedule B.

The procedure had always been to depute two surveyors to perform the survey; one for the survey of the hull, and the second for the survey of the machinery of the steamer; and, up to a very recent date, the practice had been to pay a separate fee to each of the surveyors so employed. The question, however, arose recently whether, under the strict terms of the law, such a practice was legal; and on a reference to the learned gentleman who officiated for the Advocate-General, it was held that the plain interpretation of section 10 of the Act was that one fee should be paid for every survey to both the surveyors. Mr. Graham went on to say that what was required to be paid for was the survey itself, and it was immaterial whether the survey was made by one person or not. It had been represented that, under this interpretation of the law, the remuneration provided for the payment of surveyors was totally inadequate for the arduous and responsible duties they had to perform; and a representation was made by the marine authorities for an amendment of the law, so as to provide for a separate fee for each of the surveyors. He (Mr. Thompson) thought it could not be doubted that it was the intention of the framers of the Act that there should be a separate fee for each surveyor. And until attention was drawn to the precise wording of the law, the practice has always been to pay a separate fee for each surveyor. It was also shown that in almost every case it was necessary that two surveyors should be deputed, and the division of the fee was insufficient to give an adequate remuneration for the work done. He would add that the fee levied for the survey of a steam vessel in India was less than the fee levied at home under the merchant shipping Act; and in the enclosure to the report made by the master attendant on the subject, the opinion was expressed by four or five mercantile houses having shipping interests in this port that a division of the fee would be inadequate for the performance of the duty. To remedy this defect he would, with the permission of the Council, move for leave to

›ring in a short Bill to provide that a separate fee should be paid to each surveyor employed in he survey of a steam vessel.

The motion was agreed to.

REGULATION OF MARKETS IN CALCUTTA.

MR. SCHALCH moved that the Bill for the better regulation of markets in Calcutta be ead in Council. He said that at the last meeting of the Council he had stated rather fully he circumstances under which it was proposed to introduce this Bill, and the principles on vhich it was intended to frame it. He need not, therefore, take up the time of the council n the present occasion further than by making a brief statement of the details of the Bill efore the Council.

The first portion of the Bill (sections 1 to 4) required that, in the case of any place not ised as a market, if it was the intention of the proprietor to bring it into such use, he should ake out a license from the Justices. The granting of the license would be compulsory on the ustices, provided a certificate was granted by the health officer and the engineer of the Justices hat the place was suitable and fit for the purpose for which it was proposed to be used, and the icense would be granted without any fee.

The second part of the Bill proposed that, with a view to enable the Justices to know the arties who were to be held responsible for the conservancy and cleanliness of a market, the ame of the owner should be registered, and that all transfers of ownership should also be egistered similarly without payment of any fee.

Lastly, the concluding sections of the Bill provided that the Justices shall be empowered o purchase land for the construction thereon of municipal markets. It provided that the cost hat may be incurred for that purpose may be provided for by loans to be raised by the issue of ebentures on the security of the tolls and dues levied therein; and collaterally on the security f the general fund, reserving however the right of the existing debenture-holders to have the rst lien on the general fund. And it also provided for the mode in which the Justices were to ecover the tolls and dues they may impose on the persons who may sell in their markets.

BABOO JOTEENDRO MOHUN TAGORE said that he wished to make a few observations on this Bill. He considered that conservancy and sanitation were the two principal things which ame within the province of a municipality, and, as far as these were concerned, he thought the aw gave sufficient power to the municipality to enforce proper conservancy arrangements a nd an effective supervision and control over existing markets in Calcutta. He held that it as no part of the functions of the municipality to embark in speculations of any kind hatever, or to establish markets of their own. Now, the Bill proposed, not only to give he Justices power to construct a market, but also to authorize them to raise funds for that urpose on the collateral security of the general rates and taxes. It was an admitted fact, as h letter of the Chairman of the Justices would show, that the proposed market was intended pecially for the benefit and convenience of the better classes of the Europeans. He submitted hat it was exceedingly unfair and unjust to pledge the credit of the general rate-payers for he benefit of a small section of the community, and thus to render these rate-payers liable to dditional taxation in case the speculation should prove unsuccessful.

On a former occasion the hon'ble mover of the Bill cited as a precedent that public ecessaries were constructed out of the general funds, but that they were used by only a ection of the lower orders of the people. He (Baboo Joteendro Mohun Tagore) begged to tate that there was no analogy between the construction of public necessaries and a public arket. Public necessaries have been constructed, not so much for the benefit of a particular lass of the community, but for the improvement of the sanitation and cleanliness of those parts of he town in which they were situated; and being scattered over different localities, they added in o small degree to the general sanitation of the town. This, however, could not be said with gard to the proposed market. Then again, it was said that the time might come when the

Hindoos would, equally with the Europeans, resort to the new market. On such speculative grounds he thought that a cathedral might be built out of the municipal funds on the plea that the so-called heathen denizens of Calcutta might hereafter be evangelized by the labours of the Christian missionaries; or an opera-house might be started on the pretext that native ears might hereafter be trained to appreciate the sweets of Italian music. In fact, if this principle were admitted, the municipality would be justified to undertake anything and everything to suit the tastes of any particular section of the community. He therefore begged to suggest that the select committee be instructed to take these matters into their consideration, and to remedy the injustice to which he had referred.

MOULVY ABDOOL LUTEEF said that he had only one remark to make with reference to the provisions of section 4 of the Bill, which provided penalties on parties who sold fruits or other articles in places not licensed as markets. In his opinion this section would bear hardly on fruiterers who had not shops in regular markets; and he thought that the select committee should see that shop-keepers should not be inconvenienced or harassed by any such provision remaining in the Bill.

MR. SCHALCH said that, with regard to the observations that had been made by the hon'ble member opposite (Baboo Joteendro Mohun Tagore), he wished to make a few remarks. He thought that the Council would agree with him, taking the European view of the case, that it quite fell within the province of the Justices to construct a market. It seemed to be argued that because there were different communities in Calcutta who had not the same wants and requirements as to articles of food, therefore the municipality should not be empowered to construct a market. He did not think that that held good, because it struck him that all portions of the community do want certain articles of consumption, though some may not require meat, others may not require fish, and so on. He thought that, whether they were Mahomedans, Hindoos, or Europeans, there were articles which they required, and which they would procure at the proposed market. He thought that a market, well constructed, well ventilated, and well regulated, would be found as useful to one class as to another. It has been urged that the market would be solely beneficial to one section of the community, and the cost of constructing such a market should therefore be borne by that community; and that if this principle was not observed, the municipal fund might be appropriated for the construction of a cathedral. But the cases were not analogous, as in the one all classes of the community might avail themselves of the benefit afforded by a market, whereas in the other, the building would be restricted to the use of one religious community. This latter was the view taken by the municipality with regard to the burning ghât. It was there held that the ghât, being for the benefit of one portion of the community should be carried out at the expense of that community, and that principle was extended to every other religious community in the town. For very shortly after the question of the burning ghât had been discussed, the cemeteries existing in the town were closed, and the communities who used them were required at their own expense to provide themselves with burial grounds outside the town. This was done in the case of the Armenians and Greeks. The Armenians provided themselves with a new cemetery; and in the case of the Greeks, they were assisted only so far that land was taken up by the Justices as for a public purpose, but the whole expense was borne by the Greek community.

With regard to what had been last said, as to section 4 of the Bill being harassing on a certain class, he would explain that by the provision referred to it was intended that, if a place be hereafter used as a market without the owner having taken out a license, any person selling in such market would be punishable, provision being made that the clause should not affect itinerant vendors of fish, fruit, or vegetables.

THE ADVOCATE-GENERAL said that if he was not out of order in addressing the Council after the reply of the hon'ble mover of the Bill, and as he might perhaps not have another opportunity of expressing his views in the Council on this Bill, he would take leave to make a

few observations, more particularly with reference to that portion of the Bill (the only portion which appeared to have been the subject of any objection) which enabled the Justices to erect a market, and for that purpose to raise the necessary funds by loan, and to pay interest on debentures issued on the collateral security of the municipal rates.

He entirely agreed with the hon'ble member on his right (Baboo Joteendro Mohun Tagore) in his remark that the general application of the municipal rates ought and was always intended to be for the sanitation and improvement of the town, and that that was the leading principle which always ought to guide the Council in legislating with regard to any future more or less particular application of the surplus rates. The application of that principle would sufficiently prevent the possibility of any suggestion being entertained for the erection of such things as a cathedral or an opera-house. But he (the Advocate-General) failed to understand how it could be said that a Bill like the present, which not only provided for the superintendence and registration of existing markets, but which also enabled the Justices to erect new markets, could be any thing but a measure falling within the general object of sanitation and improvement. It was true that if we looked to the particular circumstances which influenced the municipality in applying to the legislature for passing a measure on the subject, they had no doubt special reference to the condition and capabilities of one principal market in the town which was principally, though not exclusively, used by the European community. Still he failed to see how it could be said that a proposal like the present, even assuming that it necessarily includes the erection of a new market which would give improved facilities for the purchase of commodities on the part of the European community, would be in any way transgressing the general principle which he had already admitted, namely, the principle of sanitation and improvement. It seemed to him that when, as in the present state of things with regard to Calcutta, the more broad and general measures of sanitation and improvement have been or were in course of being carried out under existing legislation, such as the general system of drainage, the supply of water, the lighting of the town, and street improvement, it would be in fact quite tying up the hands of the municipality as regards any further measure of sanitation and improvement if they were to be limited to measures in which every section of the community was equally interested. Even as regards these more general measures of improvement which had been or were being carried out, it could not be said that the whole community, or each section of the community, had benefited equally by them. For instance, as regards improvements in the communications of the town—the opening out or widening of streets—while he admitted that these were to be regarded as measures of general improvement, it could not be denied that the benefit to be derived from them was much greater as regards that portion of the inhabitants who resided in or frequented the immediate locality of each particular improvement, than it was in the case of other portions of the inhabitants, whether natives or Europeans, who resided at a distance. So again, with regard to the general improvement of the introduction of pure water. No one could say that it had not been practically and immediately of much greater benefit to the poorer portion of the inhabitants, and was of much greater necessity as regards particular sections of the town than it had been in other quarters. That improvement had been much more important as regards the portions of the town inhabited by the native community, than it had been to the portions inhabited by the European community, or the upper classes of the natives.

Now, to come back to the particular subject of the establishment of a market. Could it be said that it was in any way extending the principle of the Act of 1863, as a measure having for its object general sanitation and improvement, to empower the Justices to apply a certain portion of the surplus rates which were available, after providing for water-supply, drainage, and matters of that kind, in the construction of sufficient and convenient markets? If the Bill stood with the omission of any clauses empowering the Justices to construct new markets, he apprehended it would be exceedingly imperfect, because, from the facts laid before the Council, he believed it was quite certain that, making all allowance for such local improvements

as might be introduced by the establishment of a system of registration and supervision with regard to existing markets, still the limited extent and defective construction of such existing markets would leave things in a very unsatisfactory and insufficient state. Then, could it be said that because the benefit from the construction of a particular market would be greater and more immediate to the European community than to the inhabitants generally, there was any unfairness, or want of equity, in the Justices in their discretion—a discretion which, under the law, was subject to the sanction of the local Government—determining on the erection of such market, any more than they would be acting unfairly in erecting another market in another part of the town, the benefit from which would accrue exclusively to the native population of that neighbourhood? It was not the object of the Justices, as he understood—it certainly was not, as far as he could gather from the terms of the Bill the object of the hon'ble mover—in any way to give an exclusive benefit to the European community as distinguished from the rest of the inhabitants of the town. That in carrying out a measure like the present, one market should afford special advantages to one class, and another to another, necessarily resulted from the fact that there were different classes, and different localities having different requirements. But the existence and recognition of such differences would not disentitle such a measure as the present to the character of being one for the general improvement of the whole town, and as such, a part of the grand object for which the Corporation of the Justices was established. Therefore he cordially supported the hon'ble mover of the Bill with regard to that portion of it which related to the construction of markets.

There was one more matter for consideration, which was rather a question for discussion in select committee. As he understood the proposed measure with regard to the erection of new markets, the security to be given to persons lending money on debentures was limited, first, to the rates and tolls derived from the markets, and secondly, to the surplus general municipal rates. But he would suggest whether it would not be worthy of consideration that the security should also be extended to the land on which the markets were erected, and to the market buildings. That would probably have the effect of enabling the Justices to obtain money on easier terms than they would otherwise be able to do, and would be a sort of security interposed between the payment of interest out of the market rates, before coming upon the surplus of the general municipal rates.

The motion was then agreed to, and the Bill referred to a select committee, consisting of Mr. Wordie, Baboo Digumber Mitter, and the mover, with instructions to report in a month.

HOOGHLY BRIDGE.

The Hon'ble Ashley Eden moved that the Bill for the construction of a bridge across river Hooghly, between Howrah and Calcutta, be read in Council. He said that at the meeting of the Council he had explained the circumstances which rendered it necessary introduce this Bill, and since that meeting the draft Bill has been printed, which provides t it shall be lawful for the Lieutenant-Governor to cause the bridge to be constructed in s manner as he may consider necessary, that he may charge tolls for the use of the bridge, ma bye-laws for its management, and provide by means of a special fund for the repayment of advances received from the imperial Government for the purpose of constructing the bridge. T Bill proposed two alternative courses, should the Government desire to make over the manag ment of the affairs of the bridge—either that it should appoint a special commission for th purpose, or transfer the management to the commissioners for the improvement of the port; b he intended to propose in select committee the enactment of a more general provision than th alternatives provided for in sections 10 and 29 of the Bill as it now stood. He thought section might be framed so as to provide that if it should appear advisable to place the manag ment of the bridge in the hands of a trust, it might be placed under the management of a separa trust or of the port trust, and that the rules which applied to the one should apply to the other the Bill would thus be made more simple and compact.

He explained at the last meeting that it was proposed that the East Indian Railway Company should have the collection of a certain portion of the tolls, that is, the tolls on all traffic between their stations at Calcutta and Howrah, and that they should levy a small additional charge on all passengers and goods through their own officers at the railway station; and thus the local traffic to the railway would be practically free, the bridge toll being paid on the ticket or in the goods charge. It would only further be necessary to provide means for collecting tolls on the local traffic, that is, on passengers passing to and from Calcutta and Howrah.

Section 31 of the Bill was an important one, and would require the careful consideration of the select committee to whom the Bill would be referred. It provides that no person shall be entitled to any compensation for any loss or injury which he may sustain by reason of any obstruction to the navigation of the river which may be caused by the bridge, or by anything done in constructing it. This was one of the most important provisions of the Bill; and while he thought it was reasonable and fair, he thought it probable that there might be a great deal said in opposition to this section, and it was therefore one to which the special attention of the select committee would require to be drawn.

The motion was agreed to, and the Bill referred to a select committee, with instructions to report in six weeks, consisting of Mr. Schalch, Mr. Robinson, Mr. Wyman, Baboo Joteendro Mohun Tagore, and the mover Mr. Eden.

DRAINAGE OF DISTRICTS.

THE HON'BLE ASHLEY EDEN moved that the report of the select committee on the Bill to facilitate the drainage and irrigation of districts in Bengal be taken into consideration in order to the settlement of the clauses of the Bill. In doing so, he said that the Bill as it now stood was very different from the Bill which he first obtained leave to bring in. The reasons for the various amendments proposed by the committee were briefly explained in their report. It was found, after full consideration, that there was great difficulty in preparing one general scheme for the whole of the country on such information as the committee had before them. It seemed that many members of the Council, and especially of the select committee, preferred to defer the bringing in of such a measure until we had time to examine the wants of the country, and ascertain the possibility of framing a measure capable of being applied to all districts. At the same time it seemed to be a pity to allow this scheme to stand over while such information was being acquired,—a scheme with regard to which the proprietors of the land to be drained were prepared to incur, and the Government to advance, the cost of carrying it out. It was therefore proposed to make this a purely local measure, and to make provision for carrying out the special scheme of drainage of certain parts of Hooghly and Burdwan which have been prepared by the engineers employed in examining and surveying these districts, and for covering the cost of such work from the proprietors of the land to be affected by the measure. Accordingly, instead of its being a Bill for the drainage of the districts in Bengal generally, the committee had confined it to the drainage of parts of the districts of Hooghly and Burdwan. He had no doubt the experience gained in the working of this Act would be found very useful in framing hereafter a more general measure.

The Bill provided that the scheme should be laid before certain commissioners, of whom not less than a majority should be proprietors of the lands to be affected by the proposed scheme. The scheme would be published in the villages and lands to be affected, and in case the proprietors of one moiety of the lands to be actually reclaimed from the water should consent, the scheme would be carried out. Provision was also made for the partial carrying out of a scheme in case the proprietors of the whole of the lands to be reclaimed were not willing to join in the cost of carrying out the scheme. If therefore a portion of such proprietors consented, a modified scheme might be carried out.

The rest of the Bill was taken up by details with regard to the recovery of advances, the adjustment of the charge on each proprietor, and the like—questions which could better be dealt with as the Council proceeded with the consideration of the clauses of the Bill.

The motion was agreed to.

On the motion of MR. EDEN the clauses of the Bill were taken into consideration in the form recommended by the select committee.

In the preamble "Howrah" was omitted from the enumeration of districts to which the Bill would apply.

In section 1, the short title of the Act was altered from "The Hooghly Drainage Act," to "The Hooghly and Burdwan Drainage Act."

The consideration of the interpretation section 2 was postponed.

Section 3 was agreed to after an amendment similar to that made in the preamble.

The consideration of section 4 was postponed.

Sections 5 to 11 were agreed to.

Section 12 was agreed to with a verbal amendment.

Sections 13 to 19 were agreed to.

Section 20 was agreed to after a slight transposition of words.

Sections 21 to 25 were agreed to.

In section 26 a verbal amendment was made.

The consideration of section 27 was postponed.

Sections 28 to 32 were agreed to.

The consideration of section 33 was postponed.

Sections 34 to 43 were agreed to.

In the schedule amendments were made similar to those in the preamable and in section 1.

The ADVOCATE-GENERAL said, he thought that the interpretation of the term "proprietors of lands" required amendment, and he was glad therefore that the consideration of the interpretation section had been postponed. He would also ask that the consideration of section 32 should be reserved, because he thought the "proprietor"—whatever the definition of that term was to be—ought to be able to recover 10 per cent. from all his subordinate tenures, and not from the owner of a temporary lease only. The owners of temporary leases might have other sub-tenures under them, and he thought it could not be intended that they only should recoup the proprietor, but that the sub-tenures under them should also bear their fair proportion of the cost. He thought therefore that section 32 should be taken into consideration in connection with the interpretation of "proprietor."

The further consideration of the Bill was then postponed.

The Council was adjourned to Saturday, the 25th instant.

Saturday, the 25th February 1871.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *presiding*.

T. H. COWIE, ESQ., *Advocate-General*,
THE HON'BLE ASHLEY EDEN,
A. R. THOMPSON, ESQ.,
V. H. SCHALCH, ESQ.,
MOULVY ABDOOL LUTEEF KHAN BAHADOOR,
T. M. ROBINSON, ESQ.,
F. F. WYMAN, ESQ.,
BABOO JOTEENDRO MOHUN TAGORE,
T. H. WORDIE, ESQ.,
AND
BABOO DIGUMBER MITTER.

CALCUTTA MUNICIPALITY.

THE HON'BLE AHLEY EDEN moved for leave to bring in a Bill to amend Act VI. of 186 passed by the Lieutenant-Governor of Bengal in Council. He said that the object of th

Bill could be explained in a very few words. A reference to section 3 of Act VI. of 1863 would show that the corporation of the Justices was composed of two classes. The first class consisted of the Justices of the Peace for the whole of the provinces, that is, for Bengal, Behar, and Orissa, who happened to be at the time residents of Calcutta; and the other class consisted of the Justices of the Peace for the town of Calcutta, who were specially appointed mainly with reference to their fitness for taking a share in the municipal affairs of the town. The reason for thus constituting the municipality was, that after great consideration, when the first Municipal Act was being discussed, the most eligible body of men to whom the affairs of the town could be entrusted was found to be the Justices of the Peace for the town as a corporate body. It so happened that at the time of the passing of the Act there were a number of public officers living in Calcutta who bore the commission of the peace for the whole of the provinces. It was inexpedient to grant to men having already a commission of the peace for the whole of Bengal a second commission giving them the power of Justices for only one city in Bengal, which was of course included in the larger commission; and the only way in which the difficulty could be got over which suggested itself to himself and Mr. Peterson, who was then a member of the Council, and who had assisted him in drawing up the scheme of a municipal corporation, was that the Justices of the Peace for the provinces who were resident in the town should also form a portion of the corporation, together with the Justices of the Peace for the town. Of course the resident Justices of the provinces were as much interested as rate-payers as any other class of the community in the affairs of the municipality. Their position was really identical with that of most of the other European residents. They were occupiers of some of the most expensive houses in the town, and many of them were residents for very many years. Arising from this double set of Justices, there had been a great deal of misunderstanding, and discussions had taken place from time to time as to the object of including these Justices for Bengal and Behar as members of the corporation. He was not prepared to admit, in spite of all that had been said on the subject, that in point of fact the arrangement had not worked satisfactorily. At the same time there was no doubt that it had exposed the Chairman of the Justices to the charge of having a body of men at his disposal who did not take much interest in the town, but who, in cases of emergency, could be called together and whipped up for a particular object. He did not believe this had been done, in fact, or that any evil result had ensued, or that there was any substantial ground for a charge of this sort; but he considered it to be obviously very desirable to get rid of any semblance of a suspicion was his kind; and the Chairman himself wished that a change should be effected in this respect. were The very existence of the names of all these ex-officio Justices on the list gave rise to a there impression, and had led the Native Justices to believe that they were always in a hopeless e ority; but in point of fact the minority had an existence on paper rather than in fact. at was now proposed to be done was to amend the section to this extent, that the Justices for of gal, Behar, and Orissa, should no longer be ex-officio members of the corporation, but that gre such of them as the Lieutenant-Governor might from time to time select and specially reg oint on that behalf should be members of the corporation. Of course in doing this great ha e would be taken to select only those who would be likely to take an interest in the affairs of e town. At present there were a great number of Justices who, from position or other cause, cl re utterly incapable of taking any share in the business of the municipality. When the list is revised under the operation of this section, only men would be appointed who could take part b the business of the town; and if there was still an undue proportion of European Justices, no c ubt it would then be rectified.

The motion was agreed to.

SURVEY OF STEAM VESSELS.

Mr. Rivers Thompson moved that the Bill to increase the fees for the survey of steam vessels be read in Council. He said the object of this Bill, as explained at the last meeting

of the Council, was simply to provide for the payment of a separate fee to each of the surveyors employed for the survey of a steam vessel. The law, as it was at present, provided for the payment of a single fee for the survey, but the practice had been for a long time to pay this fee to each of the two surveyors employed. This was found to be opposed to the exact terms of the law, and as it was necessary in most cases that two officers should be appointed for the survey of a steam vessel, it was desirable to provide that a separate fee should be paid to each of them.

The motion was agreed to.

MR. RIVERS THOMPSON then applied to the President to suspend the rules for the conduct of business to enable him to move that the Bill be taken into consideration in order to the settlement of its clauses. He said that the shortness and simplicity of the Bill made it unnecessary to refer it to a select committee for consideration.

The PRESIDENT having declared the rules suspended—

MR. RIVERS THOMPSON moved that the Bill be taken into consideration in order to the settlement of the clauses..

The motion was agreed to.

The preamble was agreed to.

Section 1 stood as follows:—

"Whenever two surveyors shall be employed in making a survey under the provisions of Act V. of 1862, passed by the Lieutenant-Governor of Bengal in Council, the owner or master of the steam vessel surveyed shall pay to each of the surveyors making the same a fee calculated on the tonnage of the vessel according to the rates in schedule B to the said Act annexed, and such further fee as is provided in section 5 of Act I. of 1868 passed by the Lieutenant-Governor of Bengal in Council."

MR. THOMPSON said he was advised by the learned Advocate-General that it would be proper to add a few words to this section to prevent mistakes. Act V. of 1862 was restricted in its operation to the port of Calcutta. By Act I. of 1868 the provisions of Act V. of 1862 were extended to ports in the mofussil, and Act I. of 1868 was made a part of Act V. of 1862. As the section under consideration at present stood, it provided for the remuneration of two surveyors when appointed under Act V. of 1862. The addition of the words "or Act I. of 1868" was necessary to prevent doubts as to the application of the Bill to surveyors appointed for the survey of vessels elsewhere than in the port of Calcutta. It would also be necessary to insert after the words "schedule B to the said Act," the words "V. of 1862." He begged to move these two amendments.

The motion was carried, and the section as amended was agreed to.

Section 2 and the title were agreed to.

DRAINAGE OF DISTRICTS.

THE HON'BLE ASHLEY EDEN postponed the motion, which stood in the list of that the report of the select committee on the Bill to facilitate the drainage and of districts in Bengal be further considered in order to the settlement of the clauses

REGULATION OF LODGING-HOUSES AT POOREE.

THE HON'BLE ASHLEY EDEN also postponed the motion, which stood business, that the report of the select committee on the Bill for the bett lodging-houses in Pooree be taken into consideration in order to the se clauses of the Bill.

The Council was adjourned to Saturday, the 4th March 1871.

Saturday, the 4th March 1871.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *presiding.*

T. H. COWIE, ESQ., *Advocate-General,*
THE HON'BLE ASHLEY EDEN,
A. R. THOMPSON, ESQ.,
V. H. SCHALCH, ESQ.,
MOULVI ABDOOL LUTEEF KHAN BAHADOOR,
T. M. ROBINSON, ESQ.,
BABOO JOTEENDRO MOHUN TAGORE,
T. H. WORDIE, ESQ.,
AND
BABOO DIGUMBER MITTER.

SURVEY OF STEAM VESSELS.

MR. RIVERS THOMPSON moved that the Bill to increase the fees for the survey of steam vessels be passed.

The motion was agreed to.

DRAINAGE AND IRRIGATION OF DISTRICTS.

The HON'BLE ASHLEY EDEN moved that the report of the select committee on the Bill to facilitate the drainage and irrigation of districts in Bengal, be further considered in order to the settlement of the clauses of the Bill.

The motion was agreed to.

The ADVOCATE-GENERAL said the first amendment for consideration to-day stood in his name. The definition of the term "proprietor of lands" as it stood in the Bill sent up by the committee, although a very great improvement on the definition originally contained in the Bill, was still open to this objection, that whether under the words "or in actual occupation thereof" would not be included property in possession of ryots. He would propose, with a view to get rid of that possible objection, and also to make the definition somewhat shorter and clearer, to substitute for the definition of "proprietor of lands" now in the Bill, the following:—

"'Proprietor of lands' shall be taken to mean a person other than an occupancy ryot having a perpetual tenure or interest in such lands entitling him to the immediate occupation thereof, or to the receipt of rent from the actual cultivators thereof, or from a tenant holding directly from him under a temporary lease."

He had retained the words "entitling him to immediate occupation," as it would extend to the case of a bheel or other lands with regard to which there were no actual cultivators, but which were in the immediate ownership of the zemindar, who would be the proprietor. Therefore, excluding occupancy ryots, "proprietor of lands" would include the person having a perpetual tenure or interest in the land entitling him either to the immediate occupation of the land or the first receipt of rent either from the ryot or a temporary talookdar.

BABOO DIGUMBER MITTER said, the Council must have observed that in signing the report of the committee on this Bill he had reserved to himself the right of urging whatever objections he might have to it before the committee of the whole Council. That he did not exercise that right when the Bill first came on for the settlement of its clauses, was simply because his objections were so many, and they touched such vital parts of the measure, that he felt somewhat diffident in urging them at that stage of it, when by so doing he feared he would only prove an obstructive without being able to carry any of his amendments. He had, however, the consolation left him that even if the Bill passed into law, it would be simply harmless, as he felt pretty sure it would never become operative.

As regards the clause under consideration, whatever other defects it might have to answer for, it was at any rate never intended that it should include within the category of proprietors, tenants with rights of occupancy only. The amendment moved by the learned

and hon'ble member was therefore quite of a verbal character, and did not even touch the real objections, which in his (Baboo Digumber Mitter's) opinion the clause in question was open to. The object of that interpretation clause was to define clearly the class of persons with whom Government should deal directly in the matter of the drainage operations, and to whom it should look for the repayment of the advance made for those operations. In doing this effectually, the Council must keep two things closely in view. First, not needlessly to multiply the number of such persons, as it would else complicate the work of apportionment of the sums advanced by Government as provided for in some of the subsequent sections of the Bill; secondly, not to bring within the meaning of the word "proprietor" men who had no other security to offer for the repayment of the State advance except the plot of land improved. The clause as it now stands answered to neither of these requirements, for it evidently embraced holders of small mouroosee tenures, from many of whom it would be next to impossible to recover any portion of the State advance. Besides, in treating with the holders of these small tenures, whether for purposes of ascertaining the wishes of the parties interested as to the desirability of the projected works, or for apportionment of the State advance as provided for in subsequent sections, how was it to be determined, except by a regular judicial inquiry and investigation, that the tenures were really mouroosee: since in the majority of cases, as the Council cannot be unaware, the mouroosee title to these tenures is claimed by length of possession on *payment of rent at a uniform rate*, and not on the strength of a lease in perpetuity. The amendment moved by the learned Advocate-General did not meet these difficulties.

To effect any real improvement to the clause in question, the word "proprietor," in his humble opinion, should be so defined as to mean no other than the owner or owners of an entire estate on the collector's towjee, or of some sub-division of the same, not being less than a mouzah, held in perpetuity of tenure and fixity of rent; leaving the mouroosee-holders of small plots of lands, as well as the holders of other small tenures, whether rent-paying or rent-free, to be dealt with by such proprietors according to some defined rules. Towards that end he would move that all the words after "shall" in the 15th line be omitted, and the following words substituted in lieu thereof, "be owner in perpetuity of tenure as well as of rent of not less than a mouzah of an estate entered on the register known as the general register of revenue-paying estates."

The PRESIDENT said it would perhaps be considered rather presumptuous in him, being the youngest member of the Council, to express an opinion on the subject under discussion. He would not in the debate; but probably he might be allowed to explain in a few words the general view he had formed with regard to this Bill. It seemed to him that the Bill in many of its provisions, and more especially in the clause regarding the definition of "proprietor of lands," raised many new and very difficult questions—questions with which he was afraid we should have to deal much farther before we had done with them in regard to affairs of this province, which were at present very pressing.

The view, then, which he on his part took of the Bill before the Council was that we ought not to defer small Bills of this kind till we had settled absolutely and for ever those questions which we would have to settle sooner or later, such as with regard to the definition of "proprietor," and those arising in other portions of this small Bill, which Bill if we were to take that view of the case have to defer for a very long time indeed. Therefore, in consonance with the view taken by the hon'ble mover of the Bill, he would regard this Bill as an experimental Bill—a Bill which on the whole we could not hope at once to put into a shape that would certainly hold water for all time, but as a step towards the solution of the question. He regarded this Bill a small Bill, not because it was small in importance.—God only knew where it would meet the object in view, which was one of enormous importance, namely, to check the spread of sickness in the districts to which the Bill applied; this Bill was intended as a step towards remedying that. In that respect it was not at all a small Bill; but compared to

more general measures, it was in some sense small; for, firstly, it was a local Bill; and secondly, it was a permissive Bill. It was not proposed that the measure should be imposed by authority of law on the proprietors of the estates that would be affected by it; but it was only to be imposed if a majority of the proprietors accepted it.

But taking that view, we come to the question of making the best definition we can of the term "proprietor of lands" for the purposes of this Bill. It seemed to him that all parties were agreed in respect to this Bill, and also in respect to the greater measures that were to follow, that it was necessary that we should see first whether we were about to depart from the old accepted use of the term "proprietor" as it had hitherto been used in the Bengal Regulations, that is to say, men paying revenue directly to Government. We know that we had in this country a state of things with which in England we were not very familiar, but with which he was familiar as existing in Scotland, where there was one chief proprietor and several gradations of under-proprietors, and which had been carried in this country to that extent that the man at the top who stood as proprietor in the books of the Government, who holds the land as nominal proprietor, is in many cases a man who in reality did not exercise the rights of a proprietor at all, but who had become a mere rent-charger in regard to that land, and was in reality a very insignificant individual. When we enter into such questions as that raised by this Bill, and into questions of local taxation and other important questions, it is necessary that we should approach the question who is to be considered the real proprietor of that land; for it stands to reason that the Government zemindar who has come to be in the position of a mere rent-charger cannot be called the real proprietor. Looking at this Bill in a somewhat hasty way, he had also been struck with the same difficulty which the hon'ble member who spoke last had referred to; namely, that if, instead of taking as proprietor the party to whom the original grant had been made, the sudder malgoozar, we go down to the lowest person having a permanent interest in the soil, and ryots having the right of occupancy, and treat them all as proprietors, we should be throwing on the commissioners, who were named in this Bill, a burden heavier than they would be able to bear—we should throw upon them the burden of distributing the expenses of this great work amongst a vast multitude of petty holders of limited interest. He was also struck with the difficulty of defining who these holders were. The commissioners must institute inquiries in order to ascertain what tenants have a right of occupancy or a right to something more than a right of occupancy. Supposing you except tenants having rights of occupancy, you still have to inquire what ryots [illegible] rights greater than rights of occupancy, rights of holding at fixed rates of rent. Unfortunately, we have not yet made an approximation to ascertain who these ryots are; and the operation of this Bill is to be hung up for years to come, until you find out who have such [illegible], there is no saying when it will come into operation. He might say that he agreed exclu[illegible] much with the remarks of the hon'ble member in thinking that it would perhaps be [illegible]ssary to make the definition of the term "proprietor" somewhat narrower.

the f[illegible] Who then were to be treated as proprietors for the purposes of this Bill? He inclined to [illegible]k we must stop a little higher than ryots. He suggested that we might stop at the of the [illegible]est under-holder holding a permanent and fixed interest; that is to say, whose rent was fixed, he [illegible]d who collected rents from ryots holding under him. He should like, he thought, to exclude rig[illegible]ere ryots holding at fixed rents, leaving the zemindar to collect under section 32 of the Bill ob[illegible]om all classes of ryots who might be made liable under the Bill. Whether we should accept wha[illegible]e arrangement which the hon'ble member had suggested, namely, that we should not go below pro[illegible]e holders of an entire mouzah, from his very imperfect knowledge of holdings in Bengal, the[illegible] (the President) thought there would be considerable difficulty; because he understood that in he Bengal a mouzah was not, as in some other parts of India, a very well defined tract of land [illegible]orming a revenue and agrarian unit, but that mouzahs were often very much scattered, and for[illegible]erhaps even arbitrarily created by the survey, and that you will find putnees and durputnees pro[illegible]nd other tenures holding shares in several mouzahs and many interests much intermixed in

them. He would therefore merely submit for the consideration of the Council whether there were not practical difficulties of this nature in regard to the proposal of the hon'ble member, which, as he understood it, did not take the form of a distinct amendment. The suggestion then which he (the President) threw out for the consideration of the Council was that which he had already mentioned, namely, that you should exclude all ryots, and include under the term "proprietor" all under-holders at fixed rents above the condition of a ryot. He believed that the term "ryot" as coming under Act X. of 1859 had a distinct meaning, which excluded putnees and such larger tenures, and at the same time also excluded some subordinate holders who were below the condition of ryots. He put his suggestion in this form, namely, that possibly we might get over the difficulty in this way by substituting in the amendment of the hon'ble the Advocate-General for the term "occupancy ryot" the simple term "ryot;" and secondly, substituting "ryot" for the term "actual cultivator" in the latter part of the amendment. In that case it would be left to the commissioners to determine who were "proprietors" under the act of a degree superior to ryots, and they would then assess those whom they held to be proprietors.

The ADVOCATE-GENERAL said, having regard to the probable working of the Act, and to the consideration that in any definition of "proprietor" it must be left to a certain extent to the commissioners to decide whom they would recognize as proprietors (the persons whom in the first instance they were to assess with the re-payment of the advance), he thought it would meet the suggestion made by His Honor the President if the definition of the term "proprietor" stood in this way:—

"'Proprietor of lands' shall be taken to mean a person having a perpetual tenure or interest, at a fixed rate of rent, in such lands entitling him to the immediate occupation thereof, or to the receipt of rent from the ryots thereof, or from a tenant holding directly from him under a temporary lease."

The PRESIDENT said that he thought the effect of the clause would be to exclude grantees-dars and other tenants of that kind: they were proprietors; but the only question was the means of assessing the proportion of payment and collecting the money. But he understood that the opinion of the Council was very much in favor of excluding such men, and although hon'ble members might not wholly approve of the definition, he hoped they would be induced to agree, on the understanding that a clause would be inserted enabling the commissioners to decide the question summarily as to who were and who were not included in the "proprietor," without prejudice to the rights of the parties.

The substituted motion was then agreed to, and the section, as amended, was passed.

To the postponed section 4, the following proviso was added on the motion of SCHALCH:—

"Provided that the majority in number of the commissioners shall always be persons qualified aforesaid."

BABOO JOTEENDRO MOHUN TAGORE said, that although no notice of amendment stood his name, he would take the liberty of drawing the attention of the Council to section 11 the Bill. He did not know that he was in order in doing so, for the section was one of th that had been already agreed to by the Council. [THE PRESIDENT thought the hon'ble mem was at liberty to proceed with his remarks]. It was the generally accepted rule that when multiplicity of interests was concerned, the views of the majority should prevail; and he d not see why in this instance that rule should be departed from, and the views of only one-ha of the persons interested should be considered binding on the other half of such persons. Th section to which he had alluded enacted that in case the proprietors of not less than one moiet of the wheels to be drained should assent to the adoption of the scheme, the commissione should proceed to consider it, &c. With the leave of the President, he would move that "tw thirds" should be substituted for "one moiety."

The PRESIDENT said the question raised by the hon'ble member was one of great import ance, namely, whether the whole or only a portion of the persons interested should be consulte

in the matter. Perhaps he might strain a point in his own favour in order to go a little beyond the meaning of the hon'ble member's motion. The word "proprietor" was defined in a very large sense, as including a large proportion of persons having a permanent interest in the land; but as in clause 11 the right to vote is limited to the proprietors of the *bheels and swamps* to be drained, the proprietors of the lands to be affected other than bheels and swamps will have no voice in the matter. Perhaps it was not fair at this stage of the Bill that the matter should be explained for his satisfaction; but probably the hon'ble member in charge of the Bill, or any other hon'ble member, would enlighten him so far as to explain exactly the views which the committee entertained in limiting the section to what he might presume to be a minority of the persons who were interested in the matter. He himself felt that in a matter of this kind, if all the proprietors of the lands to be affected were consulted, a majority of votes would suffice. But he confessed that he had some doubt whether, if only the proprietors of the bheels and swamps to be drained were consulted, a majority of that minority of proprietors would suffice for the decision of a very important matter which would impose a heavy liability upon a large class of persons beyond those who were to be consulted under this section.

The Hon'ble Ashley Eden said that this provision, under which the assent was limited to one moiety of the proprietors of the bheels and swamps to be drained, was unanimously introduced by the select committee in substitution of the provision of the Bill as originally drawn, which provided that one-half of the proprietors of lands in any way affected by the drainage scheme should be required to give their assent. These swampy lands were peculiarly situated: they were enormous unreclaimed pieces of water; and of course the persons who were really interested in their drainage, and who would have mainly to pay for the improvement, were the owners of these large swamps. They were the people whose voice should be heard in the matter, as nearly the whole expense of the improvement would fall on them. At the same time there were round about the swamps a certain number of proprietors who would be more or less affected by the reclaiming of these bheels. Their lands would be improved and they would benefit, but not to such an extent that the drainage works would ever have been undertaken for them or by them had the swamps been out of consideration. Their benefit was, in fact, accidental, and arose from their happening to be in the vicinity of the lands which were to be reclaimed. The work was not so important to these holders of adjacent lands as to the proprietors of the bheels; and it seemed very hard that a few litigious persons amongst the petty holders whose lands might be affected, should have the power to obstruct the operation of this Bill and prevent the reclamation of the swamps. After great consideration the committee thought it would be best to throw the onus of adopting or rejecting the work upon the proprietors of the swamps themselves. It would be very hard, if half of these large proprietors were willing to have the work carried out, that a few petty proprietors, whose whole interest in the measure amounted to a few rupees, should have it in their power to put a stop to these works being carried out. It might be said that if their interest was so small, why make them pay at all; but as they unquestionably would benefit by the works which had to be carried out for the reclamation of the bheels, it was only fair and just that they should contribute towards the expense to the extent of their benefit. That was the principle on which the select committee had framed the section. There seemed to be a further misapprehension of the intention of the section. The assent of the proprietors of not less than one-half of the bheels was required, and not the assent of one-half of the number of proprietors concerned: that would secure the assent of the owners of one-half of the property to be touched.

The President said he thought a good deal of the objection that he had raised would be met by the provision in a subsequent clause, that in case of failure to realize the whole amount expended, the balance was to be realized from those only whose lands were wholly unfit for cultivation and had been rendered fit for cultivation; that was to say, from the proprietors of the bheels and swamps that had been reclaimed, so that the weight of the liability fell on this

latter class. Therefore he was inclined to accede to the argument of the hon'ble mover of the Bill, and he would say that he thought it desirable that at a subsequent stage of the Bill it should be provided that a proprietor who had no voice in the question should only be called upon to pay to the extent of the benefit he actually received: in that case no substantial injustice could be done them.

BABOO JOTEENDRO MOHUN TAGORE'S motion was then by leave withdrawn.

The postponed section 27 was agreed to.

On the motion of MR. EDEN, a verbal amendment was made in section 28.

Section 32 stood as follows:—

"Every proprietor of lands charged with any sum under the provisions aforesaid, may, after he shall have paid or entered into an engagement for the same, recover from the owner of any temporary lease or other subordinate tenure benefited by the works in respect of which such payment may be secured or made, an annual sum calculated at the rate of ten per cent. per annum upon such portion of such payment as shall bear to the entire payment the same proportion as the area of the lands of such owner benefited by such works bears to the area of the entire lands of such proprietor benefited by such works. Such sum to be payable by equal instalments upon the days appointed for the payment of the rent of such tenure, and to be recoverable as if the same were an arrear of rent."

After a verbal amendment made on the motion of the Advocate-General—

The ADVOCATE-GENERAL moved that the following proviso be added to the section:—

"Provided that such proprietor shall not be entitled to recover under this section, from any such person as aforesaid, more than the entire amount of the payment which such proprietor has made or engaged to make, and that the sum annually recoverable in any case shall not exceed the increase in the annual value of the particular lands benefited."

He said that otherwise, in the case of a lease of more than ten years, the proprietor might recoup himself a great deal more than he was entitled to do.

The motion was agreed to, and the section as amended was passed.

The ADVOCATE-GENERAL then moved that the following section be introduced after section 32:—

"XXXIIA. Any person who shall have made any payment under the provisions of section 32, or of this section, may recover from any person from time to time holding immediately from him a temporary lease of any portion of the lands benefited by the works in respect of which such payment shall have been made, such sum as shall bear to the entire payment so made the same proportion as the area of the entire lands in respect of which such payment shall have been calculated may bear to the area of the entire lands of such subordinate holder which shall have been benefited by such works."

The PRESIDENT said he thought the questions raised in this section would affect materially not only the class of persons directly benefited under the provisions of this provi but also the whole of the persons coming under section 32. Looking back to sec 21, he there found that when the commissioners came to distribute the burden amongst various persons interested, it was apportioned not only with reference to the quantity of and in the possession of the person who would be benefited by the improvement, but also proportion to the benefit derived by the lands. It was not simply that the man who has hundred acres should pay five times as much as the man who has one hundred acres; bu he owner of the one hundred acres had been very much more benefited by the improveme he was to pay not only in proportion to the quantity of the land, but to the real profit deriv In section 32 reference to the benefit derived had been altogether omitted, the assessment bei nade on the acreage only. He would therefore suggest that it would be just and not incon nient to add in this section some such words as were contained in section 21.

The ADVOCATE-GENERAL said that he had no objection to adopt the suggestion that h been made, and he would therefore propose to add to the section under consideration a provi similar to that adopted in section 32. The whole section would then run thus:—

"XXXIIA. Any person who shall have made any payment under the provisions of section 3 or of this section, may recover, from any person from time to time holding immediately from him temporary lease of any portion of the lands benefited by the works in respect of which such payment shr

have been made, such sum as shall bear to the entire payment so made the same proportion as the area of the entire lands in respect of which such payment shall have been calculated may bear to the area of the entire lands of such subordinate holder which shall have been benefited by such works. Provided that the sum annually recoverable in any case under this section shall not exceed the increase in the annual value of the particular lands benefited."

The section, as amended, was then agreed to.

On the motion of MR. EDEN, section 33 was amended so as to stand thus:—

"All outlets and water channels, natural or artificial, which shall be altered, enlarged, excavated, or cut, under the provisions of this Act, and the construction and maintenance of embankments and of dams and works in the same, shall, save as hereinafter provided, be subject to the law for the time being in force regulating the construction and maintenance of public embankments and public rivers, channels, and outlets."

The PRESIDENT said he now proposed to defer the further consideration of the Bill to the next meeting of the Council, and to have the Bill re-printed in the meantime. He would, at the same time, remark that there seemed to remain two questions for the consideration of hon'ble members. The first question was, that the proprietors not consulted as to the adoption of a scheme should not be assessed to a greater degree than the increase in the value of their holdings; and the second question was, how it was to be decided who was a "proprietor," and therefore be liable to be assessed for contribution, and who was not a "proprietor." If the commissioners found themselves unable summarily to settle that question, it occurred to him that the superior holder might be allowed to pay at his option, and to take the chance of recovering from those who may be sub-proprietors under him. Suppose there was a superior holder who denied the rights claimed by under-holders, and was willing to pay, and there was reasonable doubt who the under-proprietors were, such a plan set aside much difficulty. It might be just as convenient to let the superior holder pay, and leave him to recover from his subordinate holder under the provisions of the Bill.

The further consideration of the Bill was then postponed.

REGULATION OF LODGING-HOUSES AT POOREE.

THE HON'BLE ASHLEY EDEN moved that the report of the select committee on the Bill for the better regulation of "lodging-houses at Pooree" be taken into consideration in order to the settlement of the clauses of the Bill, and that the clauses be considered for settlement in the form recommended by the select committee.

The motion was agreed to.

In section 1, the interpretation section, the word "inmate" was thus defined:

"The word 'inmate' shall mean a person passing the night in any house."

THE ADVOCATE-GENERAL moved the omission of the clause interpreting the word "inmate." He said he did not think this interpretation at all necessary, and it appeared inconsistent with the mode in which the term was used in sections 6 and 7. Under section 6 the health officer was required to certify the largest number "of lodgers which the house could accommodate, having regard to the number of inmates residing therein." There the term was used with regard to the residence of a person other than a lodger; and again in section 7 the following words were found: "shall be punished by a fine not exceeding two Rupees for every lodger for each night during any part of which such lodger shall be an 'inmate' of such house."

THE HON'BLE ASHLEY EDEN suggested that it would be better to leave the consideration of the interpretation section until the Council had settled the other clauses of the Bill.

The consideration of the section was then postponed.

Sections 2 to 5 were agreed to.

In section 6, on the motion of MR. EDEN, the words "persons permanently residing" were substituted for the words "inmates residing."

Section 7 having been read—

BABOO JOTEENDRO MOHUN TAGORE said that it might so happen that some relatives of the lodging-house-keeper might come in during the festival from a distance: such persons, he

thought, should not be considered "lodgers." It would be very hard that a person might not receive his own relatives into his house without becoming subject to the provisions of this Bill.

The HON'BLE ASHLEY EDEN said that if the relatives paid hire for the accommodation, they would be "lodgers;" otherwise they would not.

The section was then agreed to.

Section 8 was agreed to after a verbal amendment.

Section 9 was agreed to.

Section 10 was agreed to after a verbal amendment.

Sections 11 and 12 were agreed to.

By section 13 the lodging-house-keeper was required to report, amongst other things, cases of "dangerous" sickness.

The ADVOCATE-GENERAL thought it should not be left to the lodging-house-keeper to make a report of sickness only when he thought it "dangerous," because it would leave him to determine a very serious question as to the danger or otherwise of the illness. The sickness might be the beginning of a choleraic epidemic, and might result in very serious consequences. He thought therefore that a report should be required of all sickness.

On the motion of MR. EDEN the word "serious" was substituted for "dangerous," and the section, as amended, was agreed to.

Sections 14 to 38 were agreed to.

Section 39 provided for the extension of the Act to Bhobanessur and Jajipore.

The HON'BLE ASHLEY EDEN drew attention to section 22 in connection with this section. Section 22 provided that fees and penalties imposed under the Act should be employed in the sanitation of the town of Pooree. The section under consideration empowered the extension of the provisions of the Act to the other places mentioned, and he was not quite sure whether a special provision was not required to provide that the fees and penalties levied in those places should be expended in their improvement, and not in the sanitation of Pooree.

The consideration of the section was then postponed.

Section 40 and schedules A and B were agreed to.

The further consideration of the Bill was postponed.

RECOVERY OF FINES.

MOULVY ABDOOL LUTEEF moved that the time prescribed for the submission of the report of the select committee on the Bill to make better provision for the recovery of certain fines imposed in Bengal be extended for three weeks.

The motion was agreed to.

The Council was adjourned to Saturday, the 11th instant.

Saturday, the 11th March 1871.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *presiding.*

T. H. COWIE, ESQ., *Advocate-General,*
THE HON'BLE ASHLEY EDEN,
A. R. THOMPSON, ESQ.,
V. H. SCHALCH, ESQ.,
MOULVY ABDOOL LUTEEF KHAN BAHADOOR,
T. M. ROBINSON, ESQ.,
F. F. WYMAN, ESQ.,
BABOO JOTEENDRO MOHUN TAGORE,
T. H. WORDIE, ESQ.,

AND

BABOO DIGUMBER MITTER.

CALCUTTA MUNICIPALITY.

The HON'BLE ASHLEY EDEN moved that the Bill to amend Act VI. of 1863, passed by the Lieutenant-Governor of Bengal in Council, be read in Council. He said he had explained

the last meeting the circumstances under which this Bill was framed, and he need not again go into the question. The Bill was a very short one, and had been circulated to hon'ble members. There was one point, however, to which he would draw attention, namely, that there was an omission in the first section. The section, as drawn, provided that "all Justices of the Peace for the town of Calcutta, and such other Justices of the Peace for Bengal, Behar, and Orissa, as the Lieutenant-Governor of Bengal may from time to time, by order published in the *Calcutta Gazette*, nominate on that behalf, shall * * * be a body corporate," &c. It was intended to confine the selection of the Justices for Bengal, Behar, and Orissa, to those who were resident in Calcutta; it was necessary therefore that the words "resident in Calcutta" should be inserted after "Justices of the Peace for Bengal, Behar, and Orissa."

The motion was agreed to.

DRAINAGE OF DISTRICTS.

THE HON'BLE ASHLEY EDEN moved that the Bill to facilitate drainage in certain districts of Bengal be further considered in order to the settlement of its clauses.

The motion was agreed to.

After a verbal amendment in the definition of "proprietor of lands"—

The HON'BLE ASHLEY EDEN said that the next motion that he had to make was with reference to one of the two points deferred at the last meeting at the suggestion of the President. The amendment that he would now move was intended to limit the proportion to be charged against each proprietor to an amount below that to which the value of the land might be increased:—

"XXI*a*.—The amount to be apportioned by the Commissioners against the proprietor of any lands which before the commencement of the works were to some extent fit for cultivation, but were improved by the said works, shall not, in respect of such lands, exceed the amount of the increased value, which, in the opinion of the Commissioners, shall have been conferred on such lands by such works."

It was obviously just that some such provision should be made, as the works would be undertaken at the instance of the proprietors of the bheel lands, the owners of the surrounding lands having no voice in the matter. Therefore, as the work might be undertaken in opposition to the views of the surrounding land-owners, it was fair that the amount they should be called upon to pay should not exceed the increased value of their lands.

BABOO DIGUMBER MITTER said that the effect of this section would be to throw almost the whole burden of the cost of the drainage works on the owners of the bheel lands, and at the same time relieve the owners of the land improved, that is the surrounding lands, from all uncertainty as to their share of contribution towards those works—since the proposed section limits such contribution to the increased value conferred on those lands by the drainage works. Whereas, in the case of the proprietors of bheels, even if the actual cost of the work exceeded the estimate by a hundred per cent., they would have to make good every pice of it. No doubt such a result would not be very encouraging to the holders of the bheels to come forward and ask for improvements of this kind. At the same time it was but fair and proper that there should be a reasonable limit to the State demand in respect of lands, the benefits conferred upon which by the proposed works could not by any possibility be fairly ascertained, and which on that account he had always contended should be altogether exempted from all liability to meet the cost of the drainage works.

The HON'BLE ASHLEY EDEN said the object of the proposed section was to throw the burden as much as possible on those for whose benefit the work was undertaken, and on whose motion the expense was incurred; at the same time he thought the owners of the surrounding lands, who derived a contingent advantage, should contribute to the extent of the benefit derived by them.

The PRESIDENT said that there seemed to him to be only two alternative courses: either to give votes to all interested, or to protect those who did not vote in the manner proposed

by this clause. At the last meeting it was clearly shown that it would be very difficult to ascertain who the proprietors were, especially when the definition of "proprietor" was so large; and on the whole it was considered that the main burden of the work should be undertaken by the proprietors of the bheels, who would chiefly benefit by the improvement, and who alone were empowered to decide whether the work should be carried out or not. Therefore he thought that of these two courses, the Council would do wisely to accept the alternative provided for by this clause. He thought this course was less open to objection than the other.

BABOO DIGUMBER MITTER said that if he was not out of order, he would state that he thought there would be some difficulty in giving effect to this and the preceding section. Both these sections made it imperative on the commissioners, whilst making the apportionment, to keep closely in view the relative benefits conferred on the land. Now, admitting for the sake of argument that an extensive basin covering an area of twenty-four thousand beegahs could, in spite of the monsoon rains, and the spill waters from the adjacent lands finding their way into the plain, be kept sufficiently dry to admit of its being immediately brought under cultivation, without allowing the bheel gradually, or at all events partially, to silt up, how, he asked, could the relative benefits conferred on the lands by the drainage works be ascertained, except by an actual survey of the crop on the land. In the case of inproved land, it was the increased profit that was to be the measure of apportionment, which meant that the yield of the land after the drainage works had come into operation was to be compared with the yield of the same land before the drainage work was executed. If such land yielded one rupee and eight annas per beegah before, and two rupees after the improvement was effected, the amount apportioned against the land would be the amount of the increase, or eight annas. In regard to the bheel lands, the apportionment was to be according to the benefits which they had respectively derived. Now, by section 23 of this Bill, it was provided that the apportionment must be made within six months after the completion of the works was certified to the commissioners. It might so happen that the drainage work might be completed in November or December, and in that case there would be no crop before another thirteen months. Moreover, he thought that one season's crop was not a sufficient test to determine the relative benefit conferred on uncultivated land, or the improvements effected on land previously under cultivation.

The PRESIDENT said it seemed to him that the hon'ble member was going beyond the limits of the motion before the Council; his remarks rather related to section 28, and he would be at liberty to propose an amendment on that section when the present motion was disp[illegible]

The proposed section XXI*a* was then agreed to.

BABOO DIGUMBER MITTER said—For the reasons he had already given, he would now [illegible] the substitution of "eighteen months" for "six months" in the second line of section 2[illegible]

THE ADVOCATE-GENERAL said he thought that this section, in its practical working, w[illegible] quite meet the objection of the hon'ble member. The difficulty which he suggested see[illegible] to be simply this, that the period of six months might not be sufficient to enable the c[illegible] missioners to determine, from the materials before them, whether and to what extent the l[illegible] affected by the works had been improved. If the commissioners found themselves in position, he (the Advocate-General) apprehended that under the section as it stood it would perfectly competent and right for them under such circumstances not to make such apporti ment. In that case it would be competent for the Lieutenant-Governor, who was not lim to any time, to appoint an officer to make the apportionment. The officer appointed by Government would not be limited by the period of six months or by any other period; and he agreed with the commissioners in determining that there were not sufficient materials bef them, he would defer the revision and apportionment until he was in a position to do so.

THE HON'BLE ASHLEY EDEN said, the real object of the provision was merely to preve needless delays. It was intended to meet the case of the commissioners "neglecting

refusing" to make the apportionment. It in no way bound the commissioners to report within any particular time,—if they could not report within six months they had only to say so, and the time would be extended without limit simply by the omission of the Lieutenant-Governor to appoint any officer to supersede them. There was nothing to make it compulsory on the Lieutenant-Governor to take action on the expiry of the first six months, and it was never contemplated that he should do so.

BABOO DIGUMBER MITTER said, he understood that the provision was intended simply to guard against the commissioners, who were to be the owners of the land interested, neglecting to make an inquiry and report; and that in such a case, the Lieutenant-Governor might take the matter into his own hands. Now he (Baboo Digumber Mitter) thought, the only way to effect the object in view was to extend the period, within which the commissioners were to make the apportionment, to eighteen months; for it so happened that if the works were completed in November or December, it would be fully twelve months before there would be a crop on the land, and it would take some time to make enquiries; so that eighteen months was the shortest period within which the apportionment could be made.

THE ADVOCATE-GENERAL observed that the hon'ble member seemed to forget that, under the section as it stood, the commissioners were not bound to make their apportionment within six months. The section merely provided that if the commissioners did not make the apportionment within six months, the Lieutenant-Governor might appoint an officer to do so; but there was nothing to prevent the Lieutenant-Governor from allowing the commissioners further time, if it appeared that the apportionment could not be made within six months. The object of the section was merely to provide against neglect in making the apportionment where the proper materials were before the commissioners: it did not bind them to make the apportionment within that time when they had not the means of doing so.

MR. ROBINSON said, he would point out, in support of the hon'ble member's amendment proposing to extend the time to eighteen months, that it seemed to him that it would be a great mistake for the Council to provide that the commissioners should make their apportionment within a certain time, when it was not possible that they could do so within that time. In the case of a bheel, it was perfectly impossible for any one to say, within six months of the completion of the drainage works, to what extent the land had become culturable or had increased in value. And although this was only a permissive Bill, yet he thought the Bill should not limit the time for making an apportionment to a period within which it was truly impossible to come to any conclusion.

THE HON'BLE ASHLEY EDEN observed that, in reality, there was no limit of time within which the apportionment must be made: the inquiry might go on for six years, if the Lieutenant-Governor did not exercise his power of interference under the section.

THE PRESIDENT said, he thought there was a very great deal of reason in what had fallen from the hon'ble member on his right (Mr. Robinson). At the same time, he also took the view of the law held Advocate-General, that the power was merely permissive in the hands of the Lieutenant-Governor. It might be that, within six months, the Lieutenant-Governor might be satisfied that the commissioners were so much disagreed amongst themselves, that it was advisable to take the matter out of their hands and put it in the hands of some one else. He fully admitted that that course should not be taken lightly, and the section could only be passed on the supposition that the Lieutenant-Governor would exercise a reasonable discretion in the matter. Whether it would be desirable to extend the time, subject to the risk of its being wasted, in the case of the commissioners disagreeing amongst themselves—whether it would be desirable to run the risk of that evil, or the risk of an abuse of power by the Lieutenant-Governor—he would leave in the hands of the Council.

MR. WYMAN said, it seemed to him that, if the section was passed as it stood, the commissioners might feel themselves bound to come to a decision before they had the proper materials to do so. If it was intended to give a discretionary limit of time, he thought it

would be better to fix the extreme limit. The commissioners might come to a decision within three months. It did not follow that they would defer their decision to the full time, if they had sufficient materials to enable them to arrive at a satisfactory conclusion. Therefore, on all grounds, he thought the time should be extended to eighteen months.

THE HON'BLE ASHLEY EDEN said, he most strongly objected to any such alteration of the section as was contemplated by the amendment before the Council. If the time for the making of the apportionment were extended to eighteen months, he thought the work would be allowed to crawl on till the full time had expired: it would merely be an inducement to postpone the determination of the inquiry indefinitely. So long as the period of six months was maintained in the Bill, it would induce the commissioners to attend to the work of apportionment. He could not see that there was any difficulty at all as the section now stood. As had been already pointed out, there was really no limit as to the time in which the commissioners were to complete their work, though the section did provide that, in the case of recusant zemindars neglecting or refusing to make the apportionment, the Lieutenant-Governor would have the power to step in and appoint an officer to settle the matter.

THE PRESIDENT said that, on the whole, he was inclined to submit a compromise, and propose that a period of twelve months should be fixed instead of six.

MR. RIVERS THOMPSON said, he thought that the ground on which the hon'ble member, who was in favour of an extension of the period within which the commissioners should be required to make an apportionment of the cost of the drainage works, had based his argument, was founded on a false premise. He said that the crop must be inspected to enable the commissioners to arrive at a proper decision of the benefits derived by the improvement. If that was the ground on which the argument was based, he (Mr. Thompson) thought that even a delay of eighteen months might give a false impression, if they made the crop the measure of the amount to be levied. One year might prove a very bad season, and it would be unfair to base on that ground the award to be given. The 21st section of the Bill said that the award of the commissioners should be determined with reference to the quantity of the land which would be benefited by the improvement, and the benefit derived by the land. If the land benefited had been entirely bheel land, and had been brought into a culturable condition, the commissioners would be able to decide, with reference to the quality of the land and the rent at which it was likely to be let as compared with land in adjacent places, the charges to which the proprietors would be liable. An inspection of the crop, it seemed to him, would be altogether unnecessary.

The Council then divided on BABOO DIGUMBER MITTER'S motion to substitute eight months for six months, in line 2 of section 23:—

AYES—5.	NOES—6.
Baboo Digumber Mitter.	Moulvy Abdool Luteef.
Mr. Wordie.	Mr. Schalch.
Baboo Joteendro Mohun Tagore.	„ Rivers Thompson.
Mr. Wyman.	The Hon'ble Ashley Eden.
„ Robinson.	The Advocate-General.
	The President.

The motion was therefore negatived.

THE PRESIDENT then moved the substitution of "twelve months" for "six months."

The Council divided:—

AYES—7.	NOES—4.
Baboo Digumber Mitter.	Moulvy Abdool Luteef.
Mr. Wordie.	Mr. Rivers Thompson.
Baboo Joteendro Mohun Tagore.	The Hon'ble Ashley Eden.
Mr. Wyman.	The Advocate-General.
„ Robinson.	
„ Schalch.	
The President.	

The motion was therefore carried.

On the motion of the President, the words "within six months" were inserted after the word "or," in the 6th line of the same section.

On the motion of the Hon'ble Mr. Eden, two verbal amendments were made in section XXXII*a*.

THE HON'BLE ASHLEY EDEN moved the introduction of the following section after section 40, with the object of giving effect to the views expressed by the President at the last meeting of the Council:—

"XL*a*. Whenever more persons than one may claim or be alleged to be proprietors of any lands within the meaning of this Act, the commissioners may, in a summary way, determine which of such persons is for the purposes of this Act to be deemed to be the proprietor of such lands, and shall determine to be proprietor of such lands any person who, being the owner of a superior tenure or interest in such lands, shall dispute the perpetual nature or the fixity of rent of any subordinate tenure therein held immediately from him, and shall pay the proportion of advances chargeable against such lands."

MR. SCHALCH said, it seemed to him that the object of this section was really to enable the commissioners, in case of dispute as to who were proprietors of the land improved, to decide the question summarily, until it was decided by a more competent tribunal: if that was the effect of the proposed section, he would have no objection to offer to it. But he thought that the section might be made more clear by declaring, by a proviso, that the determination of the commissioners under this section would only hold good so long as the question of proprietorship was not determined by the civil court. So far as regards the first portion of the section.

As to the latter part of the section, where the superior and under-tenant were disputing the question of the perpetual nature of the tenure or the fixity of its rent, he presumed that the party who [illegible]ast by the commissioners might go to the civil court to determine whether be held [illegible]xed rent or not, and on that being decided in his favour, he presumed that the decision of the commissioners would cease to have effect; for the party determined by the commissioners to be the proprietor would have to pay the cost of the works, and it might be a question afterwards how far it would be recoverable from the person who ought to have been determined to be [illegible]ness proprietor.

The ADVOCATE-GENERAL said, he thought the difficulty was quite got over by a reference to the concluding words of section 41. The section now proposed to be introduced would come [illegible]diately before the 41st section, and would have the effect of empowering the commissioners [illegible]per[illegible]termine, for the purposes of this Act, who was to be considered the proprietor of the [illegible]. The conclusion that the commissioners might come to on that question, taken in [illegible]ction with the 41st section, which provided that the determination of the commissioners [illegible]d not be evidence in any proceeding not under this Act, would in no way affect the [illegible]ion of proprietorship as between the two contending parties, or the question of the [illegible]tual nature of the tenure, or the fixity of its rent. That could only be determined by a [illegible] court; and by the concluding words of section 41 that was left open for determination in [illegible]egular way. The object of the proposed section was merely for the more convenient [illegible]ing out of the purposes of the Act; it did not decide whether the claim to proprietorship, [illegible]he claim to perpetuity, or fixity of rent, was or was not well founded in law: that must be [illegible]ded by the civil court.

MR. SCHALCH said, he understood from the explanation afforded by the learned Advocate-[illegible]eral that, practically, the decision of the commissioners would cease to have effect, as between [illegible] parties, when the question was decided by the civil court: the decision of the commissioners [illegible]ld only be for the purposes of this Act. He had therefore no objection to offer to the [illegible]posed section.

MR. ROBINSON said, he did not understand the object of the words, in the 11th line of the proposed section, "held immediately from him." There might be an occupier, or an actual

cultivator, *not* holding immediately from the holder of the superior tenure. It appeared to him that some difficulty might arise from the use of the words to which he had referred. There might be a proprietor of a "jote" with a large number of subordinate tenants under him, and difficulties might arise in such a case.

THE ADVOCATE-GENERAL said, the difficulty that had been suggested would be entirely got over if the present section and section 41 were read with the definition of "proprietor of lands." Under the definition "proprietor of lands" was to mean the person having a perpetual tenure or interest at a fixed rate of rent entitling him to immediate occupation of the land, or to the receipt of rent from the ryots, or from a tenant holding directly from him under a temporary lease. If there was a person who came forward and said he was the last in order of tenure-holders having a tenure with a perpetual interest and fixity of rent, then the section provided that the commissioners might determine that he was the person in the position of a proprietor for the purposes of this Act. It was not to be supposed that a decision under this section in favour of a dur-putneedar or se-putneedar would be complained of by a superior holder, who, if he knew his interest, would be but too glad to acquiesce in the arrangement.

THE PRESIDENT said that if the superior holder admitted the title of the under-tenant and threw on him the duty of paying for the improvement, it was not for the zemindar to dispute it. If the putneedar relieved his under-tenant of the responsibility, what was it to the zemindar whether the jotedar did or did not relieve the putneedar of the burden.

BABOO DIGUMBER MITTER said, this section was intended to obviate the difficulty where conflicting mouroosee claims were asserted to the same land, and where, in making the apportionment, it would be difficult to determine which was the rightful holder or proprietor of the jote. But he did not see how it would assist the commissioners in ascertaining, in the first instance, whether the persons who had represented themselves as owners of half the bheel, and given their adhesion to the scheme, were really "proprietors" as defined in the Bill. After the work had been completed, some one might come forward and dispute the legality of the thing on the ground that the works had been undertaken on the votes of persons who had no perpetual interest, and who were not "proprietors" according to the definition in the Act, and the whole proceeding was on that account null and void. It was not at all unlikely that some of the persons whose votes had been taken were not "proprietors;" so that the whole proceedings under the Act might prove to be invalid, and the Government might not have any claim to the refund of the advances that they had made.

THE ADVOCATE-GENERAL said, he must explain once more that the object of the section, as he understood it, was not in any way to determine the question whether A or B was proprietor, but all that the section proposed to do was to assess the proprietor who came forward and said—"I am the superior holder and owner as regards perpetuity of tenure and fixity of rent, and, therefore, I claim to be proprietor for the purposes of this Act." It would be impossible to lay down any legislative rule to enable the commissioners to decide in a case where two proprietors came in and one said "I am the 'proprietor,'" and the other said "you are not." Any question of that kind would have to be determined by the civil courts.

Section XL*a* was then agreed to.

THE PRESIDENT said, the Council had now gone through the settlement of the clauses of this Bill, and although it might not turn out to be as he had before expressed it, such a Bill as would hold water for all time, he believed the Bill was as good as the Council could make it at present. He thought that the Bill was as just a one as we could hope to make it, and being an experimental measure, it was desirable that we should pass it in some shape, in order that we might have the experience of its working to guide us in the future introduction of a general Bill to be applicable to all the districts in Bengal. If, when the Bill was passed into law, it was found to be defective in any particulars, and that it required amendment and tinkering, why, being passed by this Council, we could amend and tinker it ourselves. It might be a question whether we shall obtain the sanction of the Governor General to this Bill; but the

could be no question that if, after the Bill was passed and assented to by the Viceroy, it was found that any reasonable amendments were required in it, there would be no difficulty to obtain sanction to those amendments.

He had been a good deal impressed with the necessity of some such Bill as this being passed as a general measure; for he had learned in the course of last week that in many parts of Bengal there was a good deal of public spirit and a very great inclination on the part of the people to undertake works of this kind which might benefit the community of any part of the country. There were in fact, he was led to believe, parts of Bengal in which the people were anxious to throw off the imputation of slothfulness and inactivity which was made against them in undertaking works of this kind. He would ask leave to read to the Council a petition which had been lately received, and which he had reserved for consideration till the proper time arrived. It was a petition addressed to the Lieutenant-Governor of Bengal from the inhabitants of certain villages in the sub-division of Comercolly in zillah Pubna. The petitioners stated—

"That the villages named above are situated in the margins of jheels Kakina, Gazaria, Saibhanga, Niharia, Chorbela, Padmabila, Kulamara, Baghargara, Kalgara. These jheels are very deep, and as they have no outlet, a great part of the said villages remain under water throughout the year, causing great loss and injury to the ryots. A petition having been made to Mr. Beaufort, late magistrate of Pubna, that officer was pleased to cause a canal to be dug for the discharge of the waters of the jheels noted above, and thus remove the sufferings of the people for a time. Owing to their misfortune, a portion of the canal in question (about eight rashies in length) has been filled up, and thus an impediment has again stood to the free discharge of water, which has again thrown the ryots into their previous sufferings.

"That the zemindars of the villages named above, though punctual in collecting their rents, are blind to the inconveniences and sufferings of their ryots. Your petitioners, therefore, most humbly pray that your Honor will be graciously pleased to issue orders on the magistrate of Pubna and the deputy magistrate of Comercolly to cause the excavation of the canal with the object to remove the distress of the ryots, who are willing to bear one-half of the cost, provided the other half be realized from the zemindars of the villages."

So these ryots not merely wished to have this improvement, but expressed their willingness to defray half the cost that might be incurred in executing it. That, he thought, was a [illegible]able petition. He did not intend to assume that the zemindars were really blind to the the cings of their ryots. All he meant to say was, that these were ryots who proposed to deal wi[illegible] they complained of in a practical way by suggesting a remedy and proposing to [illegible]elves a portion of the burden of the expense. They not only cried to heaven, [illegible] to help themselves. Now a petition of this kind seemed to go to confirm what [illegible]tated, that there was real ground for wishing that a Bill of this sort should be [illegible]ight be applied to other parts of the country.

[illegible]was also desirable that he should take notice of another petition relating [illegible]art of this Bill, namely, the definition of the word "proprietor," which he [illegible]en printed and circulated amongst the members of the Council. The petition [illegible] petition of the English and Native ryots of Bengal, and was signed by [illegible]t on their behalf. He (the President) really did not know what authority [illegible]. to represent the English and Native ryots of Bengal; but what he said as [illegible] was—

wha[illegible] "That we object to the definition therein recorded of the 'proprietor of lands.' We most humbly pro[illegible] that it be amended according to the definition laid down in the Hon'ble Court of Directors' letter the[illegible]d 27th December 1830:

he [illegible] "*Para.* 3. What we understand by the term 'recorded proprietor' so frequently termed in correspon[illegible]ce is, that among the individuals having a hereditary interest in the soil of the village or other districts, [illegible] name of one or more is entered in the Collector's books as persons entitled to engage with Government for[illegible] the revenue; that the party so engaging is in reality a contractor with Government for a certain amount pro[illegible] revenue."

As far as he understood it, the object of the petitioner was to protest against the ter "proprietor" being extended to permanent under-tenants. He thought that the objectio was unreasonable, because nothing could be clearer than this, that the persons who would chiefl benefit by improvements in the land was the person who held a permanent tenure, whether a a subordinate tenant or directly from the Government.

The remaining portion of the petition referred to the rent laws which were not now befo the Council, and therefore the only expression in that part of the petition which it was necessar to notice was that it was asserted in the last paragraph of the petition—

"We humbly and most respectfully protest against this class legislation. We beg to state that in t passing of the above rent laws the Zemindars' and Landholders' Association, some half a dozen out of t millions of Bengal, were the only people consulted, and not even one single ryot."

He must say, in regard to this, that he had always found great difficulty in ascertainin what the wishes of the ryots, who were the most numerous class, really were. He had been tol as regards financial matters, that the 'people' would like to get rid of the income tax and pa instead an increased duty on salt; and it occurred to him that perhaps the '*people*' alluded t were those upon whom the income tax fell—a very small minority. However that might be, was at any rate most desirable to know the feelings and opinions of the humbler members society, and since the petitioner alleged that only half a dozen persons had been consulted, h should like to know whether any hon'ble member was in charge of this petition, and whethe representing the ryots, he would wish to say anything on the subject.

The preamble and title were then agreed to.

REGULATION OF LODGING-HOUSES AT POOREE.

THE HON'BLE ASHLEY EDEN, in moving that the Bill for the better sanitation of Pooree, an regulation of lodging-houses therein, be further considered in order to the settlement of it clauses, said that since the last meeting of the Council a petition had been sent to the Counc by a gentleman engaged in missionary labours in Orissa, and the petition, he believed, ha been circulated to the Council. He was quite sure that the petition was written with the best po motives, and for a most humane purpose, but he could not find that there was anything that could take a practical form in connection with the present Bill. The chief evil that complained of in the petition was that relating to what are called "pilgrim-hunters," a was suggested that a check should be put to any and every act of extortion on their He did not see what the Council could possibly do in this Bill to prevent that evil; he tho that special legislation for the prevention of the evil could not be devised, so long as inclinations of the people led them to place themselves in the hands of these men. All we could do was to provide for the proper treatment of the pilgrims when they arrive their destination, and this object was secured by the Bill.

The other provision suggested by Mr. Bailey related to the sale of *mahaprasad*, o food sold at the temple. This subject was discussed before, when a Bill similar to the pr one was pending, and after much consideration the Council came to the conclusion that it not desirable to make any provision on that point. Therefore, on the whole, he (Mr. Eden not propose to make any change in the Bill in consequence of the receipt of this petition.

The motion was agreed to.

Verbal amendments were made in sections 22 and 39, and in the preamble and title; an on the motion of the ADVOCATE-GENERAL, the definition of the term "inmate" was struck o as being unnecessary.

The Council was adjourned to Saturday, the 18th instant.

Saturday, the 18th March 1871.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *presiding.*

T. H. COWIE, ESQ., *Advocate-General,*
THE HON'BLE ASHLEY EDEN,
A. R. THOMPSON, ESQ.,
V. H. SCHALCH, ESQ.,
MOULVY ABDOOL LUTEEF KHAN BAHADOOR,
T. M. ROBINSON, ESQ.,
F. F. WYMAN, ESQ.,
BABOO JOTEENDRO MOHUN TAGORE,
T. H. WOODDIE, ESQ.,
AND
BABOO DIGUMBER MITTER.

CALCUTTA MUNICIPALITY.

THE HON'BLE ASHLEY EDEN applied to the President for leave to suspend the rules for the conduct of business to enable him to move that the Bill to amend Act VI. of 1863, passed by the Lieutenant-Governor of Bengal in Council, be taken into consideration in order to the settlement of its clauses.

THE PRESIDENT having declared the rules suspended—

THE HON'BLE ASHLEY EDEN moved that the above Bill be taken into consideration in order to the settlement of its clauses.

The motion was put and agreed to.

Section I was agreed to with the insertion of the words "resident in Calcutta," after the word "Orissa," in line 3, as the date for the commencement of the Act.

Section II was agreed to after the insertion of the words "1st day of June 1871,"

Section III and the preamble and title were agreed to.

REGULATION OF LODGING-HOUSES AT POOREE.

THE HON'BLE ASHLEY EDEN moved that the Bill for the better sanitation of Pooree and other towns in Orissa, and regulation of lodging-houses therein, be passed.

The motion was put and agreed to.

DRAINAGE OF DISTRICTS.

THE HON'BLE ASHLEY EDEN moved that the Bill to facilitate drainage in certain districts in Bengal be passed.

The motion was put and agreed to.

FINANCIAL STATEMENT.

THE PRESIDENT said that before adjourning the Council he thought it right to state that he proposed to suspend the rules for the conduct of business in order to give an opportunity of making a statement regarding the local finances of Bengal. He feared that he should not be in a position to lay before the Council a complete budget of expenditure and income as was desired by the Government of India when certain funds were allotted and allotted at the disposal of the local Governments. Looking at the state of things throughout India—seeing that the other local Governments had announced their intentions and had prepared Bills to give effect to their proposals, and as he was afraid that there was a good deal of misapprehension based on an unfounded statement that had been made that it had been found quite unnecessary to impose local taxation to make up the deficit caused by the short assignment, it was desirable that he should take the earliest opportunity of placing the Council in a position to enable them to judge of our financial prospects as far as it was in his power to do so. He should therefore take the opportunity next m

to lay before hon'ble members s
these financial matters. He wou
ments that had been made, what
reference to departmental demay
of the shape in which we shou
when we entered into a more
that might possibly be brou
11 o'clock on Saturday next,

ch information as he found he was possessed of in regard to
ld state in general terms what was the result of the assign-
funds we had to meet the expenditure, and how we stood with
ds. And he would make suggestions pointing out his view
ld have to consider the measures that might be necessary
detailed consideration of the subject in connection with Bills
t before the Council. He therefore adjourned the Council to
n he would make the above statement.

Sat

urday, 25th March 1871.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *presiding*.

T. H. COWIE, ESQ., *Advocate-Gener*
THE HON'BLE ASHLEY EDEN,
A. R. THOMPSON, ESQ.,
V. H. SCHALCH, ESQ.,
MOULVY ABDOOL LUTEEF KHAN BAHADOOR,
T. M. ROBINSON, ESQ.,
F. F. WYMAN, ESQ.,
RAJAH JOTEENDRO MOHUN TAGORE BAHADOOR,
T. H. WORDIE, ESQ.,
AND
DIGUMBER MITTER.

CALCUTTA MUNICIPALITY.

THE HON'BLE ASHLEY EDEN moved that the Bill to amend Act VI. of 1863, pa
the Lieutenant-Governor of Bengal in Council, be passed.

The motion was agreed to, and the Bill passed.

RECOVERY OF FINES.

MOULVY ABDOOL LUTEEF moved that the report of the select committee on the B
make better provision for the recovery of certain fines in Bengal be adopted, an
withdrawn.

MR. WYMAN said he did not find from the report of the select committee th
argument had been adduced against the necessity of making additional provision for
recovery of the fines imposed under the authority of the Suburban Slaughter-house
He therefore wished to ask whether it was competent to introduce a Bill for the more eff
working of that law.

THE HON'BLE ASHLEY EDEN said he would explain how the matter stood. Origi
this question came before the Government on the recommendation of the Commissioner
Police that an Act amending the Slaughter-house Act should be passed. While that refer
was pending before the Government, notice was given by the hon'ble gentleman of a
which purported to be a Bill to make better provision for the recovery of certain *frasad*, o
imposed by Acts passed under a long series of legislation prior to the year 1862. But w
we came to look into the matter we found, as was stated in our report, that there in that it
no necessity to amend the process laid down in all those laws for the recovery of the fi(Mr. Eden)
imposed under them, the process laid down in those laws, was fixed after due consideration at petition.
time, and there had been no oversight in the matter, as had been stated, and really it appea
that all that was proposed was by a sort of side-wind to amend the Slaughter-house A
In consultation with the learned Advocate-General we came to the conclusion that if an A
ired amendment, it was much better that it should be done in a frank and open manne
ct as it were by a side-wind including the Act to be amended with a number of other Ac

which there was no necessity whatever to amend. This Bill would, therefore, be withdrawn, and the question of amending the Slaughter-house Act would remain as open as it was before this Bill was introduced; and he had no doubt that the hon'ble member himself would, on behalf of the Government, introduce a Bill to amend what was found defective in the Slaughter-house Act.

The motion was then agreed to.

LOCAL RATES FOR LOCAL PURPOSES.

MR. SCHALCH moved for leave to bring in a Bill for local rating for certain local purposes. He said it would be in the recollection of the Council that three years ago the Government of India had requested that the local Governments should provide means for education and the construction of roads and other works from local cesses. Considerable discussion took place at the time, and the matter was then referred to the Secretary of State for India, who entered fully into the question of local rating for local purposes, and explained at length the arguments which induced him to decide in favour of the proposed local cesses. He need not detain the Council by entering into all those arguments, but he would state to the members of Council the conclusions to which the Secretary of State had arrived, and on which it had now been found necessary to take action. In the despatch of the Secretary of State it was stated—

"There is still much absolutely requiring to be done, if the condition of the people is to be improved, which the Government cannot undertake out of imperial funds. It cannot out of the means now remaining at its disposal make and maintain the roads and bye-roads required for developing the resources of a country so vast as India. If, therefore, this work is to be done at all, it must be done by the help of rates established for the purpose. In like manner it has been assumed in all the discussions which have arisen in recent years upon this subject, that the expenditure which may be required for the vernacular [illegible] of the people, and for sanitary improvements, cannot be afforded by the imperial revenue, and [illegible] met, in the main, out of the same additional resources. There appears, indeed, to be no alternative, unless it be the alternative of allowing the country to remain without drainage, and without roads, and without education."

"Such cesses should be laid upon the owners of land only in common with other owners of property [illegible] of a kind to be accessible to the rate."

"Where such rates are levied at all, they ought, as far as may be possible, to be levied equally without [illegible] and without exemption upon all the holders of property accessible to the rate."

Further on the Secretary of State observed—

"It would indeed be most desirable if the local character of these rates could be emphatically marked [illegible] committing both the assessing of them and the application of them to local bodies." * * * * "[illegible] possible to carry the people along with us through their natural native leaders, both in the assessment [illegible] expenditure of local rates."

"[illegible] above all [illegible] requisite that the benefits to be derived from the rates should be brought [illegible] benefits should be palpable, direct, immediate."

[illegible] was the [illegible]

[illegible] least of it, so far as he himself was concerned the approval by the Secretary of State of the suggestions [illegible] he had spoken elsewhere regarding [illegible] of local finance which had been [illegible] of local rating in Bengal, has been satisfactorily established that in giving them a certain control [illegible] be raised as is required for roads."

[illegible] in the administration, a power was [illegible] Government of Bengal in a letter from the Governor [illegible] not [illegible] unduly burdening the [illegible] observed—

[illegible] time, we [illegible] pledging fully the ad[illegible] every opportunity should be given to the people to [illegible] had felt to the [illegible] of the rate believes that the comparatively limited experience [illegible] extent as the head of [illegible] ment, and aging. In any plan which may be considered this [illegible] of the matter in which we [illegible] sider d, with this view, gladly assent to any measures which [illegible] ng with the advantages which would result [illegible] operation of the intelligent classes of the community [illegible] the Government of India. [illegible] proceeds."

On receipt of this correspondence the then Lieutenant-Governor of Bengal appointed a
committee for the purpose of suggesting means for local rating for local purposes, and in the
instructions to the committee he observed—

"The decision pronounced by the Secretary of State on the important question of local cesses h ary
been arrived at after mature consideration of the differing opinions which are held upon the subject, it lls
of course be understood that there should be no discussion in the committee in regard to the princil to
the measure which has now to be carried out. It will be desirable that the deliberations of the co
should be strictly confined to the preparation of a scheme of local taxation in accordance with th
expressed in the despatch of the Secretary of State"

That committee, of which he (Mr. Schalch) had the honor to be appointed Preside
composed, in addition to the official element represented by a member of the Board of I
and a Secretary to the Government, of a member representing the British Indian Ass
of a European gentleman who was interested in the management of many extensive es
a native gentleman of considerable mofussil experience. The committee found their t
a hard one, and after a couple months of careful deliberation they submitted to the G
a draft Bill and a report in which they stated the principles on which the Bill was pr
their reasons for coming to the conclusions which they had arrived at. That repoi
Bill had been considered by the Government, and it was now proposed to lay before t
a measure founded very much on the draft Bill of the committee, adopting many of its pi
but not altogether adopting all its details.

It was proposed that the cess which should be imposed should be a cess bearin
classes, which were divided into the agricultural and the non-agricultural. As re
former class, it was proposed that a cess should be imposed which should be
the gross rental of the land; that the collection of such cess should be placed in the
the recorded proprietor of the estate; that all persons who had any interest in the lan
bear a fair proportion of the cess, and that facilities would be afforded to the proprietor,
the Government would hold responsible for the collection of the cess, to recover th
proportions of the rate from all parties interested in the land. It was proposed to av
intermediate governmental agency in the assessment and collection of the rate, so as to
if possible, those evils which had been felt by the employment of such agency in the coll
of other taxes; and with that view it was proposed that the assessment should be left entir
the people themselves under such safeguards as it was hoped would ensure with
accuracy a correct and fair return of income. The provisions for effecting these safeguards
be rather complicated, and he would not therefore now take up the time of the Coun
referring to them.

With regard to the non-agricultural classes, great difficulty was felt by the com
arriving at any conclusion. But after much deliberation and very ...ssion t hesitatio
determined to levy the cess by a graduated house-tax. That pron... refe... be...
the Bill; but it was felt that great difficulties existed in connect... man of a ... hey arrive
hoped that the deliberations of the Council might find some... ar 1862. of certain f
fewer objections than those with which the collection of ... eport, that there ... rasad, os
He had thus stated the principles on which these ... ne recovery of the ... to the pre
nity were proposed to be assessed. He would now ... er due consideration ... n that it
was proposed to administer the funds obtained fro... ted, and really it appea... at Mr. Eden)
the application of the tax should be entirely and ... the Slaughter-house A... petition.
of the assessment raised in any one district sh... he conclusion that if an A...
constructing roads and other communications ... a frank and open manne... nd title; an
evidence before them that the tax was imposed ... with a number of other Ac... was struck o
the mode of administering the tax, it was propos...
Secretary of State, to which he had already refe...
be entrusted to local bodies, and for this purpose a

d that at least two-thirds of its members should be persons who are not salaried officers of overnment. Such committee would be required to determine the amount which was to be rly expended; upon it would rest the responsibility of seeing that the funds raised were berly applied and expended.

Slau[illegible]n thus putting the whole matter before the Council, he had avoided entering into any t with regard to the principles on which the Bill was founded, because he did not think Council had now before them sufficient data for entering into that discussion, and he thought that the discussion had better take place on a subsequent occasion when he ove that the Bill be read in Council, and when the Council would have been placed in M[illegible] of all the facts and circumstances of the case; and further, because, according to the purpose[illegible] he conduct of business, the Council did not, it appeared to him, in merely sanctioning Governm[illegible]ction of a measure, pledge themselves to the principles, or even to the details, of the ducation could probably be better discussed at the next stage of the Bill.

iscussion[illegible] ONOR THE PRESIDENT said that he wished to take the opportunity afforded to him of r India, [illegible]on placed before the Council by the hon'ble member on his left (Mr. Schalch), Lie[illegible]ugth the [illegible]statement regarding the financial position of the province of Bengal. He me[illegible]ed not de[illegible] the permission of the Council, allow himself a latitude in going somewhat ouncil th[illegible] scope of this Bill, in order to make a somewhat general financial state- en fou[illegible]e wished he could have placed in the possession of the Council that exact budget or[illegible] This and expenditure which was contemplated by the resolution of the Government which the[illegible] the 14th December last, by which the scheme of local finance was inaugurated. at its disp[illegible]d that, under the circumstances of these provinces, it was impossible that he could country so[illegible] extent contemplated by that resolution of the Government of India. Hon'ble established during re[illegible]re aware that not only was the system inaugurated by the resolution a new bla[illegible]cation[illegible] that a change in the *personnel* of the Government of this province had lately be[illegible]ce; that he himself, as the head of the Government, was new to the administration, [illegible] it would take some time to make himself acquainted with the full details of the [illegible]ration of the several departments. Therefore he must submit to this Council that in [illegible] enable him to place before the Council an exact budget of receipts and expenditure, other[illegible]e him to go fully into the details of the expenditure of the several departments, [illegible]ese details, to cut down where it might be cut down, to stop the tide of [illegible]re where it could be stopped, it would be necessary carefully to scrutinize the whole [illegible]ministration of the several departments, and that he must have time to enable him to [illegible]wally. What he proposed was this, that before the commencement of the financial of Be[illegible] would begin on the 1st of April next, he thought it right and respectful to place [illegible] in possession of all that he knew himself in regard to our financial position. It [illegible]ally considered necessary to make a mystery of financial affairs; but on the [illegible]e that honesty was the best policy, he desired to open his heart to the Council, to make [illegible]n breast of it, so far as he himself had any knowledge of the subject.

He had spoken elsewhere regarding the advantage which was likely to accrue from the scheme of local finance which had been inaugurated by the Government of India. He believed that in giving them a certain control over their own finances and making them interested in their own administration, a power was given which the Government and the Council were not likely to abuse by unduly burdening the province for which they legislated. But at the same time, whilst acknowledging fully the advantages of the new system, he must state that he had felt to the utmost the sense of the responsibility laid upon them, and on him to some extent as the head of the Government, and that we were now about to approach that view of the matter in which we had to consider the responsibility of the burdens laid upon us along with the advantages which would result from the scheme of local finance conceded by the Government of India.

With a view to consider what those burdens were, he should lay before the Council such figures as he had been able to prepare. They would not be exact figures; his calculations must proceed on the original scheme set forth in the resolution of the Government of India. Since that scheme was promulgated, several re-adjustments had been made by the Government of India; but he would mention that they had only reached this Government within the last two days, and he had therefore been unable to prepare the accounts in which these figures had been introduced. The nature of these adjustments was to make some small additions to the assignments which had been formerly made to us, at the same time that they carried with them certain additional charges. The Financial Department were a somewhat dangerous sort of people to deal with, and before we proceed to congratulate ourselves in consequence of any gifts received from them, we must look narrowly into the whole of the charges. He himself was inclined to look at the gifts of the Financial Department with caution and care.

He should like to produce a budget distinct from, and independent of, the arrangements for local cesses, and which he might call the provincial budget, so as to distinguish provincial taxation from that question of local cesses. Provincial taxation and local cesses were in principle quite distinct from one another; and he thought that the question of local cesses for specific local purposes should, as far as possible, be kept quite apart from the other question of provincial finance. The local Rating Bill would be for proper local purposes, as the hon'ble member who asked leave to introduce the Bill had pointed out to the Council in submitting his motion. In point of fact, local funds and cesses of various kinds had existed in several provinces long anterior to the provincial arrangements now for the first time about to be commenced. And he might say here that the Bill of which the hon'ble member had charge, was a measure which had been under consideration before the scheme of financial decentralization was made known by the Government of India.

He was the more inclined to avoid any appearance of confounding the two subjects, because, while some other local Governments had, he hoped unjustly, incurred the imputation of improving the occasion to add to their provincial resources more than the burden imposed on them by the Government of India, he was especially desirous that the question of local rating in Bengal should not be prejudiced by any suspicion of the kind; that it should be quite understood that any proposal for local rating would be in good faith for really local objects, and subject to effective local administration. It would be seen, however, as he proceeded, that, as a matter of account, the two subjects necessarily ran very much into one another. And the local cess question having been the earliest, we were, on that subject, more near a definite plan, which Mr Schalch had proposed shortly to lay before the Council. He therefore took the opportunity to discuss our financial position generally, but should principally advert to the provincial finance. He should first try to make clear what the burden transferred to us from the Government of India really was; that is to say, what sums we must make good which must otherwise have been found by the Government of India. He had prepared statements showing the figures as clearly as he could put them.

The expenditure in past years on civil buildings, now reserved as imperial, and on establishments, was so mixed up with similar charges transferred to the local Governments, that he had not been able to obtain a complete statement of the total expenditure on those departments for some years past, but he should show presently how the principal departments stood on a comparison of a series of years.

He held in his hand a general statement* (A) for the years 1869-70 and 1870-71, with a rough note of the expenditure of the previous year 1868-69. It had been said in some places that the years on which the grants for future years were based, 1869-70 and 1870-71, were starved years, and therefore not years on which a proper comparison could be made. Exception was taken to the word "starved," and he would call them reduced years; at any rate he might state, without fear of contradiction or doubt, that our financial allotments were reduced in those years on account of the recent financial crisis. Reductions took

* *Vide* Appendix.

ce in those years in two ways—*first*, by checking the natural growth of the Educational and er departments, which were necessarily subjects of natural growth; and *secondly*, by very large ductions of the sums allowed for some other departments, as he should presently show ien he came to deal with those special departments. In the meantime he might say nerally that the departments of Jails and of Education, especially the latter, were completely ecked as regards their growth. On the other hand, in the departments of Police, Roads and nprovements, and Civil Buildings, large reductions had been made: they were not only checked their growth, but were reduced heavily. The only department in respect of which the rowth was not checked, was the Medical Department, that being a department on which it ould be very difficult and very invidious to attempt to place a very great check.

The year 1868-69 was the last year before what he might call the financial crisis. At hat time the Government of India had not placed any extraordinary check on expenditure, but were as liberal as the state of the finances would admit of their being. He could not give precisely the expenditure in that year in the departments which were now made over to the local Governments; he was only able to give a rough approximation to the expenditure in that year. Making allowance for such portions of the expenditure in the department of Civil Buildings as were considered to be Imperial, he found that the sum allotted for all the departments, which were now made over to the local Government, in that year 1868-69, before the reductions were made on account of the financial crisis, was in round numbers about 180 lakhs of rupees. As regards the years following viz. 1869-70 and 1870-71, the only point of difference between the statement which he held in his hand and the statement of the assignments made by the Government of India, was in regard to the one item of civil buildings. It so happened that the Government of India had adopted, in respect of our allotments for civil buildings, a different principle from the principle adopted in respect to the assignments made for other departments. They had not given us, for expenditure on ordinary civil buildings, the sum assigned to this province for the same purpose in 1870-71, which was the year that was taken as the basis of their financial arrangements; but they had taken the total sum granted for civil buildings in the year 1870-71, viz. fifteen lakhs, and they had deducted from that, not the sums given for imperial buildings in that year, but the average proportion of several years before, when the Government had been much more liberal, not to say extravagant, with regard to the construction of buildings in Calcutta. Whereas we only got for these buildings in the past year two lakhs of rupees, they had proceeded on the average proportion of the allotments on this account for previous years, and deducted four lakhs, and therefore they had given us two lakhs of rupees less than in the past year on which the assignments were based. It was to be hoped that this would eventually be conceded, that even the Financial Department might be induced to give the two lakhs of rupees which it had thus deducted. But the Financial Department were very hard to deal with, and we could not be sure that we should get back those two lakhs. Still, so far as the year 1870-71 was concerned, he was justified in adding these two lakhs for the purpose of comparison.

Before he proceeded to enter into the details of the expenditure on account of the several departments, he should allude to certain statements which had been made, from which it might be inferred that the Government of this province had not been burdened with the responsibility of finding considerable ways and means. It had been declared in the Government resolution of 14th December, that the local Governments must bear certain burdens, present and prospective, but it had been sought to explain away the effect of the resolution and declarations of the Government of India, and it was done in this manner:—Those who made such statements took the departments which were not cut, but only checked, and dealing with these departments alone, and omitting from the account the departments which were cut, they professed to show that we had been subjected to no deduction whatever. But he thought it was perfectly clear that if the growing departments were checked and others cut down, then as a whole we had been reduced a very considerable sum, as was shown by the

original resolution of the Government of India; and he was only doing his duty in showing the effect of the arrangement as a whole on our local budget and our local finances. He had one further observation to make in regard to the departments of Jails, Education, and Medical, that a very large proportion of the expenditure on account of these departments was not included in the departmental charges, but was put as public works charges, and that the assignments at the present time of the Public Works Department had been so cut down, that we were unable to carry on the buildings for those departments as we could desire. He thought then that our Jail and Education and other departments had been cut down just as effectually as if it had been done directly, when great reductions had been made in the grants of the Public Works Department.

The general result of the statement he held in his hand was to show that the reductions which had been made from the grants of the previous years were somewhat as follows:—The actual expenditure on all the departments now made over to the local Government was in 1868-69, speaking roughly, in round numbers 180 lakhs. Well, then, we had in one column the actual expenditure of the year 1869-70—the year in which the financial crisis occurred, and in which the expenditure was cut down to the utmost possible limit consistent with the arrangements made at the commencement of the year. The result of that cutting was, that the expenditure which had been about 180 lakhs in 1868-69 was reduced to Rs. 1,61,58,000 in 1869-70, or in round numbers 161½ lakhs. In the next column we came to the grant for 1870-71. That grant was made after the financial crisis had been fully realized; it was made in the darkest times,—at a time when it was thought necessary to impose a very heavy income tax under which we had lately groaned; and the result of the distribution made in the darkest times, and under the most starved circumstances, was that the grant was reduced to 154 lakhs of rupees. That was the year 1870-71.

Well, then, we came to the assignment made to us for the time to come. That assignment, as the Council were aware, in accordance with the resolution of the Financial Department of the Government of India, was obtained by taking the grant for the year 1870-71, and reducing it by something like seven per cent., thus throwing on the local Governments a burden of £350,000, which the Government of India had thought it necessary to save from the provincial allotments. Well that reduction, with the two lakhs of rupees unaccountably cut from the department of Civil Buildings, brought the grant for future years, which had been made permanent, to Rs. 1,48,42,412, or in round numbers 143 lakhs of rupees. The result of that operation was, that for the management of these departments for a series of years to come, we had 37 lakhs less than we had in the comparatively prosperous year 1868-69, and we had 18 lakhs less than we had in the first year of the financial crisis, 1869-70, and we had nearly 11 lakhs less than we had in the worst year of the financial crisis, 1870-71. He had said that the present grant had been arrived at by cutting seven per cent. from the last assignments made to the local Governments. Subsequently there had been assigned rateably to the local Governments the amount derived from the savings of the present year 1870-71, to the extent of £200,000, and our Bengal share was about £50,000. It was clear that if that grant was to be treated as a relief to our finances, it was at best a relief for one year only. He was inclined to argue that in reality the saving was not an increase for even one year, but that it was a certain capital in hand, a cash balance which it would be necessary to retain for working expenses. But that seemed to him to be a matter of argument and account, and was comparatively immaterial, because we were not now dealing with the finances of one year, but with the permanent arrangement of the assignment as a lasting resource; and if we were to make up a deficiency, seeing we were somewhat backward—we were several months behind the other local Governments—it seemed to him to be difficult to impose taxes very quickly, difficult to get the people to consent to taxes, and difficult to collect them, and that one year was little enough to do the thing thoroughly well, and to draw our money to meet the demands for future years. He would say that even if it might be possible, by cutting, clipping, and reducing in the various departments, and by drawing on

our cash balances, even if it were possible to carry on through the coming year, still it was quite time that we should put our house in order, that we should bring home to the people of this country that, if benefits were to be derived by them, they must submit to a certain amount of provincial taxation. He was now speaking of provincial as distinct from local taxation. He had explained what the figures were in regard to the amount of the permanent allotments which the Government of India had made to us—that they were 37 lakhs less than the assignment made in 1868-69, 18 lakhs less than the assignments in the next year 1869-70, and 11 lakhs less than the assignments in the most economical year 1870-71. But he must also bring to notice that it had been stated, and rightly too, that one main feature of the scheme of local finance was this, that the departments that had been made over to us were not the revenue-producing departments, but those departments in which the expenditure was continually growing. Some of the departments were in their very nature departments in which the expenditure must grow with the growth of the population and the growth of civilization and wealth, such were the Educational, Medical, and other departments. And it would be fair to this Council to state explicitly that when we proceed to put our house in order, we must not only arrange for meeting the deficit of the present year, but we must arrange for meeting a deficit in future years, which must increase owing to the natural growth of those particular departments on which the health, wealth, and comfort and enlightenment of the country depended; and therefore we might expect that the deficit would be larger in future years, and we must so arrange our scheme of taxation that it should also increase in future years in accordance with the growth of our expenditure and the demands of these growing departments.

The expenditure for the coming year—he meant to refer to the estimates made out by the various departments—appeared to amount to 169 lakhs as against 143 lakhs assigned by the Government of India. Still he might tell the Council that by cutting down and reducing those departmental budgets we hoped to reduce that estimate. He was not now in a position to explain to the Council what the real expenditure would be; but this he might say, that taking the estimates of every department as they were now given, and reducing them to the utmost extent that was found possible under the existing system, the Government had not up to this time succeeded in cutting them down to the figures at which the assignments had been made. For instance, he found that the allotment on account of Jails was Rs. 20,57,000, and that after submitting the estimates to revision, the officers of the Government had found themselves unable to assign less than 22 lakhs. Then he came to the Police Department, for which the allotment was Rs. 52,40,000. After carefully revising the estimate, and availing ourselves of the services of an hon'ble member of this Council (Mr. Eden), and reducing the departmental charges as much as possible, the result of that revision was to leave the police charges at Rs. 54,55,000, as against Rs. 52,40,000 in the budget assignment. And similarly in the Educational Department there was assigned 22 lakhs of rupees, the present estimate of the expenditure in that department being 24 lakhs. The Medical Department was always a growing department, the expenses which, up to this time, had gradually risen to Rs. 8,45,000, having now increased to Rs. 9,81,000. The particulars regarding each department he should explain in detail. But this he should say here, that the result of the present state of things was, that he had been totally unable to make any estimate of the prospective charges for roads and civil buildings, sufficient money not being available. In some sense, no doubt, these were optional charges, which it was possible to stop altogether, and which were therefore entirely under our control; and the sum which was left to us, after providing the assignments for the other departments, and providing the necessary funds for repairs of roads, &c., was so small, that it would be vain to estimate what the expenditure in this department would be until we saw what we could get and what we should have to expend upon this department.

Seeing then that the assignments of our growing departments had been checked, and that several other departments had been reduced, how were we to make up the sum by which we

thus fell short of the most economical years that had gone, and to provide for future improvements and developments?

No doubt we could save something by looking more nearly into the administration, especially now that we had a direct incentive to do so, and by improved methods and possible reductions, but we could not expect to save the whole in that way; in fact, what he had called the natural growth of some departments was such that it would much more than counterbalance all the savings that we could effect. He would ask the Council to examine briefly with him the departments which had been made over.

The first department he would touch on was, financially speaking, a small department, namely Registration, which could not be expected very largely to influence our position. He had occasion to say in another place, and he said again, that looking at the circumstances of the country, and the object of the most necessary social improvements for which the system of registration was designed, he was strongly of opinion that registration never should be a source of revenue, that it should not be permitted to us to make that department a source of revenue, and that, under any circumstances, we ought not do so. The result of the assignment made to us by the Government of India for this department was Rs. 55,000 less than nothing. If we considered that it was a just principle to extend and improve this department with the money we got from it, and not to apply it to other purposes, then, so far from benefiting from this department, we should have to make good a sum of Rs. 55,000 per annum.

Then he would go to the Printing Department. Perhaps we printed more useful books and extremely valuable papers than we could induce any one to read. Something might be saved there; but he must explain that the very large saving shown in the estimates for this department was not so much a saving in respect of books which nobody read, as a saving in account which he would explain. The fact was, that it was the practice for the printer of the Alipore Jail Press to supply printed forms, &c., to the different departments of the Government for which they executed printing work, and having a monopoly, the Jail charged very much higher rates than those for which the work could be done in other presses. The charges for printing were enormously exaggerated, and the amount went to swell the jail receipts. That had now been reformed, and we should save a large sum from the nominal expense of printing; but in reality it would only be a readjustment of accounts; by decreasing the printing rates of the Alipore Jail, and we should save a large sum in the expenditure on account of printing; on the other hand, we should lose just as much in the diminution of the jail receipts. Therefore he could not hold out any hope of gaining much from the savings in the Printing Department.

The next department he came to was Jails. They were all aware that this was a very important department. The whole of the success of our criminal administration after all rested on the good management of jails, because it was really of very little use that we should have to try prisoners and give verdicts by the aid of the whole machinery of justice unless the main object was carried out by the sentences of the Courts being duly executed. In this Jail Department the assignment to us from the Government of India was nominally Rs. 20,57,000, but then from that was to be deducted 11 lakhs, which stood on account of receipts from the jails, principally the produce of jail manufactures. Consequently the result was, that instead of getting Rs. 20,57,000, we only got Rs. 9,52,000. Not only that, but there was something else very important. No doubt we got Rs. 9,52,000. But there was a peculiar arrangement which he must explain. In former times, as the Council were aware, prisoners were employed in making roads outside the walls of the jails. That system was put a stop to, and the magistrates of districts very naturally cried out. They said, "your improved system of jail management may be all very fine, but our roads are going to the dogs." Having taken away the labour we derived from our prisoners, we ought to get the proceeds of your manufactures, as prison labour was one of the largest sources that we had for keeping in repair the roads throughout the country. The Government conceded this demand, and out of the grants made by the Government of India for expenditure on

account of jails, there were included under that expenditure very large sums, including the printing profits, which were really made over for the purpose of making district roads. He found that in the year 1868-69 the sum made over out of the jail account for the maintenance of district roads in Bengal was so much as Rs. 5,40,000; in 1869-70 the sum made over was Rs. 4 06,000; and in the current year 1870-71, which was about to expire, we estimated that it would be nearly Rs. 3,68,000. Thus, speaking roughly, he thought he might say that out of the total sum which we received nominally for jails, in reality on the average a sum of Rs. 4,00,000 was devoted not to jails, but to the repairs of district roads. The consequence was, that if there were any change of system involving a diminution of the profits of jail manufactures, such as the reformed printing charges to which he had alluded, we must make up the sum now expended on account of district roads either from new provincial or from local taxation. In reality we had received for jails only about six lakhs per annum. Considering how large the province of Bengal was, how many were the districts into which it was divided, and how many were the jails in it, he need not say that an assignment of six lakhs of rupees appeared to him very small for the purpose, and that there was no hope of making any saving from this department. The result was rather likely to be very much in the contrary direction He said so for this reason, that he was very much impressed with this belief, that however excellent our jail system might be in respect to manufactures and the profits derived from prison labour, punishment had been to a very great degree sacrificed to the making of profits. He was not about to enter into the question how far for our long-term prisoners the present mode of employing prisoners in manufactures was good: how far the system was likely to deter people from the commission of crimes and at the same time to reform prisoners. It might be, for anything he could state to the contrary, the best system that could be adopted. But for short-term prisoners he thought it was totally impossible to apply that system. He had not had time to go round to the several districts of Bengal, and he had been obliged therefore to take a good deal upon trust. But he had examined the system adopted in the Alipore Jail, which was held to be the model jail of Bengal, and he there found that although every endeavour was used for inducing long-term prisoners to learn the system of jail manufactures, there was no proper provision for the punishment of short-term prisoners, and consequently they were allowed to go and cut grass and do other sorts of light labour, on the presumption that their term was so short that they were not likely to run away. That appeared to him to be defeating the whole object of punishment. He thought that if there was any class of prisoners in respect of whom there should be short and sharp punishment, it was these short-term prisoners. The object of their punishment was to impress them sharply in a short time, and let them leave prison with the impression that a jail was a disagreeable place, and that they would not like to come there again. If that was not done, it became necessary to substitute for short terms of imprisonment longer terms, which would give them greater opportunities of associating with the more hardened criminals, and thus completely demoralize them. He asked the jail authorities how it happened that there was no proper degree of punishment for short-term prisoners, and he was told that it was impossible to teach any system of manufacture effectually within a short time, and there was no sufficient means of punishing them in any other way. Although, then, the system of manufacture in jails was carried out to great perfection, and although financially it had met with great success, it probably remained for us to expend a good deal of money in providing effectual modes of punishment for short-term prisoners. For these reasons, far from being able to effect any saving in the department of Jails, it was probable that the expenditure under this head would go on considerably increasing. No doubt in the account of jails it might be possible to avoid much additional expenditure, because we might only reduce our jail receipts and jail profits; but if so, the allotment for district roads must be reduced, and must be supplied by local cesses: that was how the jail question ran into the cess question.

The next department to which he came was the Police. The grant for this department was put down at Rs. 52,40,000. But this included a good deal for municipal police, in respect of whom seven lakhs was set down as receipts, and the result was that the real grant was 45 lakhs of rupees. When we looked back to former years, we should find that the Police Department had been submitted to very considerable reduction. He found that the expenditure on police, which amounted in 1868-69 to 61 lakhs, had been reduced in the following year to 58 lakhs. In the year after that it was reduced to 55 lakhs, and our estimate, after considerable revision, was for the coming year 54 lakhs; therefore, as far as the scrutiny of the existing system could go, the Police Department had already been very much reduced. The future of that police would very much depend upon the working of the new Chowkidaree Bill which had been lately passed by this Council, and which he might describe as a Local Cess Bill—he meant the Village Chowkeedaree Act. If the chowkeedars were turned into policemen, the regular police might be reduced. And on the other hand, if we were to maintain as chowkeedars merely the indigenous village institution, why then it would be a serious question whether in reality we could make any large reduction in the regular police. He did not think we could largely reduce that charge unless we could make a total and radical change in the system of the police, because, compared to other provinces, we had by no means a disproportionately large charge on account of the Bengal police. Take the case of the Bombay Presidency. There the charge on account of police in 1870-71 was 37½ lakhs of rupees, but by the reduction to which that charge was submitted under the resolution of the Government of India, it now stood at 35 lakhs. That was to say, the Bombay Government would obtain 35 lakhs of rupees for their police as against 45 lakhs granted to Bengal for that department. Well, now the fact of the matter was this, that Bengal was just about three times as large as Bombay in respect of area and population, while the assignments made to Bengal and Bombay on account of police stood in the proportion of about 9 to 7; or, to put it more simply, with three times the population and territory, we had only about one-third more for our police than the Bombay Government had for their police. Therefore, he said, unless we were able to introduce very radical changes in the existing police system, we could not expect any further very large reductions from the police department. He would, however, promise that the whole subject of the police should have his most anxious and careful consideration.

He would then take the Educational Department, which was a department which he had described as very progressive in respect of expenditure, as a very growing department, and he thought it was evident that it must be so, because the department was a comparatively young department. We had made certain rules for establishing certain schools and colleges, and had promised that on certain conditions we would give to private institutions grants of Government money. We had established these things in the hope that the demand for education would grow, that we would have more applications for grants of money; and if the size of schools and colleges increased, the expenditure in the Educational Department must naturally increase. There again the question of education ran into the question of local cesses for local education, which the hon'ble member in charge of the Bill to provide for local rates for certain local purposes had already mentioned as one of the purposes to which some sort of local cesses might some day be applied. As the Council were aware, there had lately been a discussion on the question of education. There were two theories on the subject: one was that you should educate the upper classes, and that education should filtrate downwards; the other theory was, that we should educate the lower classes, the mass of the people, and that education should ascend upwards. He was not going to decide between these two theories. But he was of opinion that we should work on both these systems; that we should burn the candle of knowledge at both ends. He should wish that the light of knowledge should be capable of burning not only at two ends, but at half a dozen ends, if that were possible. Even if we were to continue our present system of education without entering into the question of educating the lower masses, the expenditure of

this department must necessarily and inevitably grow from time to time. If we restricted ourselves to the permanent grant assigned to us for education by the Government of India, without the addition of local or provincial taxation, we could not continue in our present course; there must be a check given to all education. He would not anticipate the possibility of such a state of things. He felt sure that the upper classes of the natives, who had felt the benefits of education, and their sons, the rising generation, would become more and more anxious to obtain education; that we should not put a check to it; that we should not cut down the extent of our education: but, on the contrary, that we should manage to maintain our schools and colleges on the system of giving some education to all classes, and therefore we must try and obtain the means for a large increase of expenditure in this department.

He would touch very briefly on the Medical Department. This was the only department the growth of which had not been checked in the allotments made by the Government of India since the financial crisis. He believed that there was no single member of this Council who would wish that the growth of this department should be checked. He was quite sure that no one would wish to put a check to the medical and surgical aid afforded to the people by our hospitals and dispensaries. The grant for this department was not large—it amounted to Rs. 8,45,000, and it would be necessary to make up whatever amount might be found necessary for the requirements of this department in future years.

Then he came to the department of Roads and Public Improvements, which were put under one head in the assignments made by the Government of India. It was his misfortune to say that the assignments made to us for these purposes had been very greatly reduced. He held in his hand a statement* (B) which went back to the year 1863-64, and was brought down to the present time, and another statement* (C) showing the present income and the funds available for the expenditure. He found there that the assignment made to Bengal for roads and miscellaneous public improvements was in 1863-64 Rs. 24,14,000; in 1864-65 Rs. 28,55,000; in 1865-66 Rs. 27,16,000; in 1866-67 Rs. 29,26,000; in 1867-68 Rs. 24,88,000; and in 1868-69 Rs. 29,54,000. From that period a fearfully rapid decrease in the assignment for roads and improvements was observable. In 1869-70, the first year of the financial crisis, it fell down to Rs. 22,18,000; in 1870-71 it fell further to Rs. 15,78,000; and the grant for future years, under the new system, was Rs. 14,88,000. That was to say, the assignment for the coming year was something like half the grants of the years before the financial crisis. That was a great and serious reduction, and we must meet it as best we could. In addition to that deficiency in this department, we were met with a sort of aggravation of our difficulties in this respect for this reason, that when we got liberal grants we made a good many roads, and when we made roads we must have the money wherewith to keep them in repair. To give us roads without giving the means of keeping them in repair, was like giving a poor man an elephant. The result of our having made those roads was immensely to increase the expenditure on account of repairs, so much so that out of the total grant on account of roads and miscellaneous improvements, the cost of repairs of roads alone was eleven and a half lakhs of rupees; and the consequence was that, for the making of roads and other improvements, we had no more than Rs. 2,30,000 available. Notwithstanding the very great reduction made in this department, and the strongest necessity that none but absolutely necessary roads should be undertaken, we had a demand for roads in progress, which were represented to be essentially necessary for the comfort and convenience of the people; while out of the allotment we had only Rs. 2,30,000 left for the construction of roads, he found that the estimate for merely carrying on the roads which were in progress, and which were not already suspended, was Rs. 3,59,000, or half as much as again we had got for this purpose; so that if we were restricted to that sum, we should not even be able to carry out the construction of the very necessary roads that were now in hand, much less enter upon the construction of new roads, or of those which had been temporarily suspended. The principal roads which we had now in

* *Vide* Appendix

hand, and for the completion of which we must provide for, were, first, the road to Cuttack and Pooree, which, he need not tell the native members of the Council, was one which, in the eyes of all good Hindoos, was most important; then there was another important road between Bhaugulpore and Sooree; there were several bridges on the Darjeeling road; and also several necessary roads on the Eastern Frontier, to Assam, Sylhet, and Cachar, and the districts branching off from them; therefore it must be inevitable that we must either find the funds for carrying on these important and absolutely necessary roads or give them up altogether.

The next was the department of Civil Buildings. He had explained how our grant for civil buildings had been reduced from the grant of 1870-71. We had for the future a total grant of Rs. 10,36,000 for this department: out of that, after setting apart the necessary expenditure on account of establishments and repairs, we would have for expenditure on new works Rs. 5,74,171. Now, if we considered the immense demand made for civil buildings, he thought we must feel convinced that this sum was inadequate for the purpose. He had only to mention that we had in progress works requiring an expenditure of Rs. 4,53,515, besides many works that had been suspended, and many necessary new works. There was for instance an extremely expensive work in progress in this place, he meant the great High Court in our vicinity. That High Court was made over to the local Government, and we must make up our minds to finish a work which, it was hoped, would be an ornament to Calcutta, however disagreeable an object to tax-payers. Besides, there were a considerable number of district court-houses that were required, and there was also a great demand for sub-divisional court-houses and other buildings. The extension of the system of sub-divisions was one near the heart of the Government; and he believed hon'ble members would agree that the country was likely to derive the greatest benefit from the establishment of sub-divisions all over the country. We must then endeavour, as far as possible, to meet the necessary expenditure for court-houses and lock-up and things of that kind. Then there was the Calcutta University, which, being connected with education, was a matter about which a very great number of people were interested. He had looked with anxiety at the schedule attached to the assignment on account of civil buildings, in the hope that the Calcutta University would have been taken off from the provincial allotments, as being a matter of imperial importance; but it appeared that if it was to be built at all, it would have to be built from provincial funds. There were also other important works, to which perhaps he need not now more particularly refer than to say that the demand on this account was very considerable. No doubt some of these charges for the construction of jails and court-houses would, in other parts of the world, be met from local rates, and in this respect also the question of provincial taxation ran into the question of local cesses. On the whole, he thought that these expenses should be, for the present at least, met from provincial sources, and not from local rates. But the Council would perceive how much this question of provincial taxation ran into the question of local cesses, and how careful we should be to see that local rates were not unduly burdened with expenses not properly belonging to them.

The statements to which he had already referred showed how the grant for civil buildings had been reduced in recent years. And taking the two branches of public works together, he found that in 1863-64 there was assigned for civil buildings, roads, and miscellaneous improvements, Rs. 50,76,000; in 1864-65, Rs. 50,41,000; in 1865-66, Rs. 45,44,000; in 1866-67, Rs. 44,01,000; in 1867-68, Rs. 41,33,000; and in 1868-69, Rs. 52,13,000. He should explain that of these assignments a part was devoted to the imperial buildings, of which the Government of India had now relieved us; the deductions to be made on that account for the years down to 1868-69 averaged about 4 lakhs per annum. In the following year 1869-70, excluding imperial buildings, we came down to Rs. 35,73,000; in 1870-71 the grant was further reduced to Rs. 28,91,000; and in the year about to commence, 1871-72, after deducting a short assignment for establishments, it fell as low as Rs. 23,55,000, as the permanent provision for future years, or considerably less than half of what we used to obtain in the years before the financial crisis.

To sum up, the result seemed to him to be that we could not carry on the departments made over to us on the very reduced scale which now prevailed; still less could we provide for a fairly liberal normal expenditure; least of all could we provide for the growth of the departments which naturally grew and were meant to grow for the benefit of the people. None of these things could we manage without doing one of two things: either raising more money by provincial taxation for provincial purposes, or throwing upon local cesses a part of the charges hitherto imperial and now provincial. No doubt we must provide from local sources, whether by compulsory rating or by voluntary contributions, for some benefits to the people which they had not hitherto enjoyed—for village roads and other material benefits, and for moral benefit in the shape of the lower but most useful education. That question of local taxation for new objects of a local character, he as far as possible kept separate from the question of carrying on the duties already undertaken by the imperial and provincial Governments. As respects these last, he said again that we must provide funds from some source, if we would not fall utterly back and behind the rest of India and let the country relapse into a state worse than under the despotic rulers, who in some degree, by the exercise of unrestrained power, performed some of the functions which we now cast on civilized institutions. It might be possible so to arrange that our prisoners should not actually be let out of jail; that the police should not be abolished; that existing schools and dispensaries should not be altogether shut up, if we put a stop to almost all public works. Public works were no doubt in some degree discretionary, and by resolutely checking the growth of the other departments, they might be checked; but surely such a course would not be worthy of this great province. On the contrary, the cry had always been that too little had been done in Bengal. He would not enter on the question whether or not this might be justified in the past; suffice it to say that we were now told—"You have the thing in your own hands, you have complained all this time that too little has been done, you can now raise money and do more." In other provinces increased expenditure might, no doubt, in one shape or other be met by an increased and increasing land revenue. Here that greatest source of revenue was fixed, no more could be raised; and he thought it was apparent that if we would remove the stigma which had been cast on Bengal, if we would improve and advance, we must put our shoulder to the wheel. It was morally impossible that while other provinces were being taxed we should go free. It would be a scandal that because we had a permanent settlement, and that settlement had been respected, Bengal should therefore go without the most ordinary local comforts and improvements.

As regards the general Government of India, we were very much in the position of a putneedar to whom an estate had been let at a rent fixed for ever. The zemindar was naturally less inclined to improve; he might fairly say to the putneedar, "You are really the substantial proprietor; you should do it yourself with such assistance from me as my share in the profits fairly represents."

Whatever the cause, we could not look round without seeing that there was truth in the assertion that in material improvements Bengal was behind other provinces. Look at the roads, court-houses, seraies, jails, and many other things in other parts of India, and you see at a glance that Bengal had great needs, and whatever the cause of that difference might be, if it was to be set right at all, we must do it ourselves, or otherwise it would not be done at all.

The conclusion, then, to which he came with respect to the provincial budget was, that we must either arrange to impose some new provincial taxation to meet considerable and increasing wants, or we must directly or indirectly throw a portion of the burden on local cesses.

He was, he once more repeated, very unwilling to propose this last, because, as he said before, it threw a suspicion over our proposals, and weighted those local rates with that which did not strictly belong to them, at a time when we wished to make them acceptable to the people for their own benefit. If, when the time for discussion came, the Council, as representing the people, should say deliberately, "*If we are to have cesses, we had rather pay a little more, and have no separate tax,*" why, they were probably the best judges of that; but his own advice and

inclination would be to impose some provincial taxation for the charges hitherto defrayed from the general revenues, and to keep local taxation for local purposes not hitherto so met.

Well, then, what provincial taxation were we to propose? To be frank, he had not yet fully made up his mind. He was very anxiously watching the action of the other local Governments on whom also this duty had been imposed, and who were earlier in the field. As far as he had seen, the only really new tax that had been proposed by several of the local Governments was the license tax—a tax which, in another place, he had described as being a sort of rough income tax on the smaller incomes other than those derived from land; and it would be for them to consider whether we should adopt a similar tax in this province. There were, he believed, certain Bills passed in Madras, of which he had not been able to get a copy, and amongst them he understood a house tax found a place. There had also been a proposal for taxing marriages, but he believed it had been abandoned: also a wheel tax. He understood that proposals had been made for taxing servants and elephants, so as to reach the rich, as was done in England. There had also been at various times proposals for putting a tax on sales and successions; but a difficulty had been found as to the mode in which the tax could be imposed, except in the form of stamp duties, which was a means of taxation reserved for imperial purposes. In some provinces they had for local purposes octroi duties in towns, and ferry tolls, which seemed to him to be something in the nature of transit duties; and there were also ordinary tolls on roads, a means of revenue which he should feel very much disinclined to propose to the Council so far as local roads were concerned. However, the matter of taxation was in our own hands, and he had no doubt that a choice could be made of some sort of provincial taxation which might be suitable to the circumstances of this province.

He had said that he had not made up his mind individually as to what should be the form of taxation, but he would make bold to say what, in his opinion, ought not to be the form of taxation. He spoke on this subject with much respect for the opinions of others in and out of this Council, because he was aware that many of the most competent officers, and others, differed from his views on this subject. But he must say distinctly that, in his opinion, it was impossible to meet the deficit in our funds by putting an additional tax on salt. That was a mode which seemed to him to be entirely out of the question. He would take leave to mention the reasons for which an addition to the salt tax seemed to him to be practically impossible. The first reason was this, that salt was reserved as a source of imperial revenue, and therefore we could not make any addition to the tax on salt for our purposes. Perhaps, after that, to give any other reasons would be like the man who gave thirteen reasons for not firing a salute, the first of which was that he had no powder. However, he would give other reasons also.

The next reason which seemed to His Honor to militate against any increase of the existing duty on salt was, that it was already enormously high—in his opinion much higher than anything but extreme financial necessity could justify. It seemed to him that in a country where the staple food of the poorest was of that character which required a large proportion of this condiment, it was a hard enough thing to have recourse to so very heavy a tax on salt for the purpose of raising a revenue, and that no human being would, for the first time, dream of proposing to impose a tax at the enormous rate at which it was now imposed. It was only because it existed, and was a fixed branch of the revenue, and because the financial difficulties of the country were so great that though the Government had greatly desired to lower the tax, they had been unable to do so, that the tax was permitted to remain at its present rate. He might quote on this subject a paper written by a very able officer which the late Lieutenant-Governor had left with him, although Sir William Grey did not himself coincide with the opinions therein expressed. The paper to which he had referred expressed the opinion of a gentleman who had had great opportunities of forming an opinion on the subject. He alluded to Dr. W. W. Hunter, who said—

"The high Orissa rates have also destroyed one of the greatest sources of wealth to the province. It is a country of rivers and estuaries, swarming with fish, and fish used to form one of the staple commodities

of the province. Even at this moment I found that it was almost the sole relish that the poorer peasantry can procure, and their unstimulating diet of sour rice is declared by all the surgeons to be one of the predisposing causes of the low state of health in Orissa. Mr Beames mentions, in his official report to me, that fish is looked on as a luxury. "the year's supply is stored up in reed baskets and sparingly doled out" If the people try to get fresh fish, it is rotten before it reaches their villages, and tons of putrid fish are thus consumed. I naturally made inquiries as to why they did not salt their immense hauls of fish? They answered invariably that the dearness of salt rendered this impossible Now salted fish is the natural food of a vegetable diet-eating people, as in Italy and Greece from time immemorial and at this day It is also a food allowed by caste rules to respectable men, and a favourite with the well-to-do peasantry, and such people as sardar bearers and all Mussulmans, although Brahmins would not eat it, except from necessity. In time of famine in Orissa hundreds of tons of fish might be salted and sent up the rivers, and if the rates were lower, there would always be a considerable stock in the province."

Any one who had travelled by the Eastern Bengal Railway could not but testify to the putrid character of the fish brought to the Calcutta market by that line of rail. Dr. Hunter proceeded—

"Salt is two annas a seer retail in the inland villages, or 2½*d*. per stone. In the inland parts of Scotland it is 3*d* per stone So that the Orissa peasant, who has not one-third of the *money-spending* power of the Scotch peasant, pays seven times a higher rate for this important necessary of life. Salt is *eight times* dearer under our rule than under the native princes, and the enhancement is recorded as one of the causes of the Khurdah insurrection in Orissa in 1817."

That was the opinion of Dr. Hunter. And His Honor thought that a tax on a first necessary of life was hardly a source from which it would be proper to raise a larger revenue than the existing very large revenue derived from salt.

Then there was another reason why the tax on salt in Bengal should not be increased. It was, he believed, allowed that in the North-Western Provinces, where we had a saline soil, the duty on salt was already too heavy. He had had personal experience of that province, having been at one time the Commissioner of Customs, and he knew that the population of the whole of the North-Western Provinces did not consume taxed salt to the extent of more than half of the quantity of salt that they should naturally consume, the other half being either cut off from the people or supplied by salt which had been smuggled through the customs line, or still more by a sort of impure and unwholesome salt illicitly manufactured by themselves on their own lands. He had no doubt that the rate must sooner or later be lowered in the North-Western Provinces. Supposing that the Government of India were to allow us to put an additional tax on Bengal salt for provincial purposes (which they never would), there would be a great difference between the price of salt in Bengal and in the North-Western Provinces. The system could not be maintained unless we were to establish a strict customs line between the two provinces; and he need not say that to establish such a line across the Gangetic valley would be a very considerable evil.

For another reason he was of opinion that as a mere administrative question, salt would not bear a further tax, as it had already been carried too high. There was a limit to the burden which any source of revenue would bear: when you went beyond a certain point, your tax must break down. The salt tax in different parts of India ranged from 500 to 2,500 per cent. on the value of the article on the customs line; and if you attempted to enhance any tax beyond that point, you made the profit on smuggling so great, that your tax must break down. It was the last straw that broke the camel's back.

After all he had been giving only minor reasons why the tax on salt should not be raised. The last reason which he had to bring forward was to his mind overwhelming: namely, that it would be putting off the burden from the rich and imposing it on the poor. The tax on salt was a tax on the poorest of the population. It would be absolutely running counter to the whole justice of the case if we attempted to shuffle off the burden from the shoulders of the rich and put it on the lowest and poorest of the people. And although it was not likely that he would be called upon to do so, he would almost say that he would rather cut off his right hand than have anything to do with imposing a further tax on the salt of the poor.

He had discussed the question of provincial taxation freely; and therefore he might venture to go on to say that if we were to try indirect taxation, speaking for himself, he might be inclined to try a tax on an article which was much used, namely tobacco, as was done in almost every other country. He was aware that this tax had been regarded as unsuitable for imperial purposes; it might for that very reason be considered lawful for us to consider the possibility of levying a tax on tobacco for provincial purposes; to pick up the crumbs thrown away from the rich man's table. His view was that it would not be desirable to attempt at present anything like a heavy tax on tobacco; that it could not be desirable to tax every man's garden. You might adopt some lighter and easier form of taxation; you might impose a license tax on the sellers of manufactured tobacco, and perhaps levy a rate on the manufacture as was done in America and other countries, where the cultivation was quite free. His view, supposing other hon'ble members were inclined to coincide with him, would be to put a small and experimental tax on the sale of manufactured tobacco, and see how the experiment answered. If it did, the tobacco revenue might some day grow so much as to enable us to relieve the people of other burdens. This also would be no doubt a tax on the mass of the people. Still it was a tax on a luxury; and although it was a very general tax, still it would to some degree fall on a somewhat higher class than the consumers of salt.

Still, as in the main a tax of this sort would be a tax on the masses of the people, it would be necessary in the ends of justice and equity, and in the interests of our financial requirements, that we should accompany a tax of this kind by some tax which would more especially touch the rich. Some native gentlemen had lately told him, since it was understood that the income tax would be taken off, that they would prefer the imposition of an income tax for provincial purposes to anything else. He was not sure whether the Council would consider such a tax admissible, but as far as he was concerned, if the higher classes really wished for it, and the Government of India would permit it, the thing might be considered.

That was all he had to say on this subject of provincial taxation. He would now address himself with the utmost diligence to ascertain what could be cut down, and he would then return to the subject and submit to the Council the sum which it would be necessary to raise for provincial purposes, and after taking the best advice, he would state the means by which he would propose to raise that amount. What he had now said was only in the nature of throwing out suggestions; but as soon as he was able to make a careful examination of the expenditure under the different heads, and had taken advice as to the most acceptable or least unacceptable form of taxation, he would propose to the Council a Bill for the purpose of supplementing the assignments in so far as they might be found to fall short of the most necessary requirements of the different departments.

He had been long in coming to the real subject of the motion before the Council, namely the Bill to be introduced to provide for local rating for roads and communications. The hon'ble member who introduced the motion had well expressed the principle and objects of the measure, and it was not therefore necessary that His Honor should detain the Council by saying much more on that subject. The hon'ble member had entirely cleared the ground as regards the character of that taxation, and His Honor had also endeavoured to clear the ground by showing how provincial taxation might be distinguished from local rating. This Bill was intended to be restricted entirely to local purposes, and the funds that would be raised under its operation would be administered by local bodies for their own benefit. It was the result of long consideration and discussion. It was based on principles laid down by the Secretary of State in conjunction with the Government of India, accepted by the late Lieutenant-Governor of Bengal, and worked out by a committee appointed for the purpose, and presided over by the hon'ble member. No doubt the Council would readily accept the principle that funds raised for local purposes should be administered by local bodies. It was totally impossible that works of mere local improvement should be undertaken from funds derived from the Imperial Government for provincial administration, or even from provincial funds.

There were certain things which the people of each locality must do for themselves, and the object of this Bill was to enable the people to do those things for themselves. Indirect taxation was scarcely possible in restricted localities: for local purposes you must resort to that form of taxation which was long known in many countries as local rating, and it was the object of the present Bill to enable the people to raise the necessary funds by that form of self-imposed taxation.

The hon'ble member had alluded to the history of this question, and His Honor need say little more at present on that subject. It was well known that in other provinces considerable funds had been raised by cesses, and expended on local improvements. We had had a different system in Bengal. There were in this province only some moderate funds raised from the profits of prison labour and from ferries and canals, and the question of raising local funds by local taxation for works of local improvement had not previously been much considered Recently it had been first suggested in connection with the question of the education of the people. He believed that the objection had been raised, and he thought fairly raised, that it would not be fair to lay on the land alone the whole burden of the popular education. It was also stated that there was in Bengal a large amount of voluntary effort in the way of education, and it was said that it would not be desirable to stifle those efforts by a system of compulsory rating. That objection was made in Bengal and had been made in England. In the end the difficulties regarding an educational cess were found to require so much consideration, that it was determined to introduce first a Bill to provide for the most necessary material improvements. So much, as he had said, had been settled before the scheme of provincial finance had been resolved upon. He might perhaps be in a position at some future period to propose a Bill for the purpose of improving and extending local education. At the same time he must distinctly declare that if we adopted the Bill now before the Council, we would be in no degree pledged to apply the same principle to an educational cess. He threw out as a suggestion, for the consideration of the members of the Council and others, whether it might not be possible, as respects education, to propose the adoption of the principle that had been lately introduced in England, by which, where voluntary efforts sufficed to supply a sufficient amount of education, no local taxation was imposed, but where voluntary efforts failed, a local rate was imposed. The hon'ble member in charge had introduced his motion for a local road Bill in the most general terms, as the Bill had not yet been completed in its full details. He had told the Council that the Bill was one for the improvement of local communications. Before the Bill was submitted it would be carefully considered, and possibly after full consideration it might be found desirable to make considerable modifications in it. The Council would have the most ample and full opportunity of seeing the Bill as a whole and in all its details, and he trusted, therefore, that they would not hesitate to adopt the motion now before the Council, that leave be given to bring in a Bill to provide for local rating for certain local purposes, viz. for roads and communications.

The Hon'ble Ashley Eden said he did not propose to follow His Honor the President on the question of local taxation, but only desired to express his general concurrence in the views that had been expressed. But as allusion had been made to those who were strongly in favour of an increased salt duty in lieu of direct taxation, and as he had taken an active part in supporting that view, he thought that he might be permitted to give his reasons for the notions which he entertained on the subject. He should like to state his reasons for not considering the arguments that had been adduced by the hon'ble the President against an increase of the salt duty as altogether conclusive.

First, it was said that salt was an article of imperial revenue, which we were therefore unable to tax. No doubt if the Council was to sit down and propose to pass a law for raising the duty on salt this objection would be absolutely unanswerable, and obviously, if the Government of India would not consent to our raising funds for provincial services by an increase of the salt duty, there was an end to the matter. But what he desired to urge, and

what those who thought with him desired to urge, was, that if it could be conclusively shown that the salt tax was the best mode of raising the necessary increase to taxation for provincial purposes, and the mode was in accordance with the wishes of the people who had to be taxed, it would be open to the local Government to ask the Government of India, in lieu of all other local taxation for provincial purposes, to agree to the imposition of a small addition to the existing duty on salt for local purposes. Every one fully admitted that this Council could not impose a tax on salt: all that it was desired to urge was that the Government of India, in lieu of pressing us to raise local cesses of an irritating and wasteful character, might themselves do all that was necessary by this indirect form of taxation, to which nobody raised any sort of objection, and, in fact, which nobody knew that they were paying.

The second reason that had been given against an increase of the duty on salt was that the tax was already so high that no one would be likely to agree to its imposition at its present rate if it were now for the first time proposed to levy such a tax. As to this objection, he admitted that the tax on salt was high compared with the intrinsic value of the article; but he wished to point out that notwithstanding the high rate of the duty, the price of salt including the duty was no higher now than it had been from the beginning of our rule in India, and was less than it had been twenty years ago in consequence of the large importation of foreign salt and improved transit. The price of the salt commonly used by the lower classes was less than two annas per seer, and had continued at that rate for a long time; yet the first investigation into the subject of a salt tax in the early days of our rule in India showed that two annas was the retail rate: so that practically at the first levy of this duty the tax had been just as much felt by the consumer as now, and more so; for although the price of every other article of consumption had largely increased, although the price of labour and the rate of wages had much increased, though the value of money had decreased, the price of salt remained what it was when we first came into this country. And he could not see how, in the face of that, anybody could hold that the salt tax was too high. A further proof was to be found in the fact that the annual consumption of salt had nearly doubled, and was going on increasing, and that the revenue derived from salt had increased at a rate at which no other branch of the revenue had increased. Surely if the salt tax was too high, there would have been some falling off in the consumption of salt, but on the contrary the revenue from salt had increased at a rate in excess of every other branch of the imperial revenue, and quite in excess of the nominal increase attributable to increase of population.

With regard to the paper from Mr. Hunter that had been read to the Council as conclusive evidence of the impropriety of taxing salt, he did not pretend to be able to follow or understand the arguments of the writer; but so far as he was capable of understanding them, they amounted to this: that because the people of Italy and Greece eat salted fish, and because Mr Hunter fancied he traced something in common between the Ooryah and the Greek and Italian, therefore the people of Orissa would make salted fish one of their staples of food if the salt tax was not so high, and that their present state of ill health and suffering arose from their not eating salt fish. But, as he (Mr. Eden) had said before, the price of salt had not increased in consequence of the high rate of duty put upon it: the price was the same now as it had been many years ago. The people of Orissa never had been in the habit of eating salt fish: they would not touch it if they got it for nothing; and he could not therefore conceive any argument more ridiculous than that under which the change in the state of the public health in that province was attributed to want of salt fish. It showed a lamentable ignorance of the habits of the people to make such an assertion.

Then again it was said, if an additional tax was put upon salt, there would be greater temptations to carry on a smuggling trade in salt, and as a proof of this it was said that the people of the North-Western Provinces eat a great deal of untaxed salt. That might

be true as to other parts of India: it was a point on which he was not qualified to give an opinion; but the argument could hardly apply to Bengal, with which province alone we had to deal. Here it was quite impossible for the people to obtain any salt that was not taxed, except in one or two districts in Behar, and certainly this extraordinary facility of consuming untaxed salt was not consistent with the destruction of the public health for deficiency of salt to cure fish with.

Next it was said that salt could not bear an additional tax. It appeared to him that when we came to consider that each person consumed on an average six seers of salt per annum at the outside, and that a small increase of duty, say four annas or eight annas per maund, would yield more than all the local taxes put together, it was quite clear that not a single person in the country would know that he was paying any additional tax at all. What was four annas or eight annas per maund to the agricultural laborer, who only eat the seventh part of a maund in the year, compared to a cess on land or a house tax? Even those who knew that the salt which they consumed had been subjected to the payment of a duty, did not know how the tax was paid or collected.

Then it was said that an increase of the salt tax would have the effect of shifting the burden from the rich and putting it upon the poor. But he thought that such an argument could hardly bear examination; it was one which had often been used and as often refuted. For although probably the poor man consumed as much salt as the rich man, yet if we took into consideration the peculiar relations of the rich with the poor—if we considered the number of retainers that the richer classes of the natives had always about them—it would be found that the apparent inequality did not in fact exist; for every native was accustomed to feed his retainers, and they therefore not only paid the tax themselves, but for all their retainers as well. Where a poor man paid a single rate, the rich man paid 10, 20, 30, or 50 rates, as the case might be. Any way, if the tax was heavy on the poor man he would not be slow to shift it, by the increased price of labour, to the rich. Any tax to bring in anything at all must be levied on the masses, and not on the few rich men of the country, and he understood the object of the cesses to be to reach the masses. He was quite sure that any tax which did not reach the lower classes would bring us very little.

As to a tobacco tax he desired to say this, that after careful consideration the late Lieutenant-Governor, Sir William Grey, came to the conclusion that a tax on tobacco and a tax on salt were based on the same principles, if the fact were honestly stated without reference to mere sentiment. Everything that could be said against a tax on salt, could be said against a tax on tobacco. Tobacco, though some chose to call it a luxury for the sake of their argument, was just as much a necessary of life to the native as salt. But there was this to be said in favour of a tax on salt that it was levied with very great facility; it was levied like a still-head duty on spirits at the place of production or importation, and without the very slightest direct interference with the consumer; there were no collectors and tax-gatherers: all was done by the officer of customs. Whereas the collection of a tax on tobacco would require the employment of an enormous establishment, let loose to plunder the people; and even with such an establishment the proper collection of a tax on tobacco would be absolutely impossible when we came to consider that in every little garden in the country tobacco was grown and manufactured for home consumption by the people themselves. The only way to levy a tax on tobacco, effectually in these provinces, except possibly by an absolute prohibition of the cultivation of tobacco, was by cultivation licenses, and he hoped that no one in the present day would advocate such a proceeding as that. On the whole, he thought the case was simply this, that if we wished to have any great sum of money, we must have a tax which everybody must pay, whether he liked it or not. The much abused income tax, with all its interference and wrong, could not possibly bring in any amount similar to what would be obtained, without its being in any way even felt as a burden to the people, by an increase of the duty upon salt.

MR. ROBINSON said, as the hon'ble member who had just spoken had alluded to this subject of the taxation of salt, he wished to take the opportunity of stating that it had always appeared to him that the objection to the salt tax, as a tax on the poor, was only a sentimental one; he had never heard anything that could be called an argument urged against it. It was entirely in defence of the poor, especially in Bengal, that he was in favour of an increase of the salt tax in preference to any other form of taxation, if it were necessary to tax the poorer classes at all. In the first place, such a tax could be collected without any additional expense to the Government; and an increase to the salt tax might be infinitesimal, and yet yield a greater revenue than almost any other scheme of taxation that could be devised, requiring the cost of new machinery for its collection.

Another reason for his preferring an increase of the salt tax was most strong in favour of those very classes which it was the general wish of every one to protect from the burden of taxation, namely, the very poor classes of the people of Bengal; because the tax would be collected without the direct agency of any officer of the Government, and without any assessors or collectors entering any village or making any direct application to the people at all—without the people being called upon to make any returns or to attend any officer in consequence of any assessment, or being in any way personally interfered with or harassed in the payment of the tax.

For these reasons he had always thought that an increase of the salt tax was the very best way of raising additional revenue. There was nothing that the people detested—there was nothing that they objected to so much—as any form of Government demand which brought them in direct communication with the officers of Government. On these grounds, as the subject had been raised, he would beg to say that he hoped that the question of an increase of the duty on salt in Bengal would be fully considered, if the poorer classes must be taxed, dismissing all sentimental obections to this form of taxation. And if any means could be devised for ascertaining the feelings of all classes who would have to pay an increased tax, he was perfectly certain that they would, in preference to any new form of taxation, elect to be subjected to that which he had ventured to recommend.

BABOO DIGUMBER MITTER said, he had no wish on this occasion to make any remarks on the budget statement which our President has done us the honour to lay before us; in fact he was under the impression that there would be no discussion upon it to-day. But as some of the hon'ble members had already opened the question as to what would be the most suitable form in which additional taxes could be locally raised to meet the anticipated deficit in the local budget, he deemed it right to say a few words on the subject. It was rather hard that while the imperial Government had retained in its hands all the known and available sources from which revenue had been hitherto derived, the local Governments should be called upon, by a strange and rather questionable policy of financial decentralization, to supply the deficit caused by the transfer of certain services to those Governments. That deficit, though apparently only 33 lakhs, was in reality very nearly double that amount; the allotments for those services having been made on the basis of the budget grant of an exceptional year. It was not easy in this country, as the imperial Government must know well enough, to discover new sources for taxation; but if from imperious necessity a choice was to be made amongst the existing ones, he perfectly agreed with the two hon'ble members who had preceded him, that an additional duty on salt was the least objectionable mode in which an additional revenue could be raised, and he said this, to the best of his belief, more in the interest of the poor than that of the rich. No tax could be productive in this country which did not reach the poor, because they constituted unfortunately ninety per cent. of the population; and unless it was meant to exempt them altogether from contributing to the additional necessities of the State, no other scheme of taxation that he was aware of would be more acceptable to them than the one contended for by the hon'ble

members. And he ventured to say that if his countrymen were polled on the question, they would almost unanimously vote for it.

A tax on tobacco, to which allusion has been made by His Honor the President, was no doubt one which would reach the masses; but considering the thrifty and provident habits of his countrymen, he certainly thought it would not be productive: at any rate not permanently so. It was an article which had come largely into use only since the last fifty or sixty years. It was hardly known in our country a hundred years ago, and if a heavy duty was put upon it to make the tax productive, besides the oppression in various ways which the imposition of a new tax must necessarily entail, and that principally upon the poor, by calling into existence a new machinery for the assessment and collection of the tax, the consumption, he felt confident, would be sensibly reduced within a short period.

Both this and the cess on land proposed to be levied would fall on the poor, and he was not prepared to say that those taxes would be less burdensome or oppressive to them than if the sum contemplated to be levied upon them were raised by an additional duty on salt. He had already placed on record his views as to how this additional salt duty was to be supplemented by another tax which would fall exclusively on the rich, and he need not refer to it now. He reserved whatever he might have to say on the principle of the proposed local road cess measure when leave was asked for the reading of the Bill in Council.

Rajah Jotreendro Mohun Tagore rose to address the Council, when—

The Advocate General rose to order. He said he rose simply with the object of suggesting that he thought it was not desirable that this discussion should proceed. The motion before the Council, as he understood it, was the introduction of a Bill for a specific purpose, the object and character of which were stated by the hon'ble member in charge of that Bill in a most general form. His Honor the President had then, he (The Advocate General) was sure to the lasting satisfaction of the Council, made a general statement with regard to taxation. He conceived that this was hardly the time or the occasion for hon'ble members to ventilate their opinions on the subject, as to whether or not a particular tax, which was not in any possible way connected with the motion before the Council, was desirable. He hoped he should not be considered to be dictating to the Council in making this observation, but he did think that this discussion should not be further proceeded with.

His Honor The President said, his feeling undoubtedly was that this discussion was irregular; but at the same time he must admit that that irregularity had no doubt been commenced by himself in taking the opportunity, when making the budget statement, of going into a somewhat wider field than a mere statement of the receipts and expenditure of the year. He felt that he should apologize to the Council for that irregularity; but he believed that as this was a very important occasion, he might claim their indulgence, and, to a certain extent, suspend the rules in his own favour, in making the statement he had made. He was quite willing to admit that it was the right of hon'ble members to meet the statements which he had taken on himself to make to the Council. At the same time, since one or two hon'ble members had already expressed what he felt to be the case, that all the members of the Council were not and could not be expected to be in accord with all the particular views he had ventured to throw out, it might be sufficient that he should tell hon'ble members that the suggestions they had thrown out would have the most careful and respectful consideration of the Government.

He could say, with respect to what had fallen from the hon'ble member on the right (Mr. Robinson), that he felt to the full as much as the hon'ble member that we should attempt to get at the views and feelings of the mass of the people. When he spoke of the people, he meant not only those who were educated and spoke English, but the mass of the people themselves. To find a means to get at the feelings and wishes of the people had been the subject of his most anxious consideration. On a recent occasion, when a gentleman presented a petition to this Council, professing to be on behalf of the ryots, he took upon himself to ask whether any hon'ble member would undertake to represent the opinions of the ryots. No hon'ble member took advantage of that occasion to express himself as an exponent of the

wishes of the ryots; and perhaps he might say that there did not seem to be amongst the gentlemen in this Council any one who could be considered a representative of the masses. The gentlemen who composed the non-official element in the Council must be taken chiefly to represent the upper strata of European and Native society; there was no member among them who could say that he was a representative of the proper people; and he had found extreme difficulty in finding anywhere any person who could fully inform him of the feeling of the masses of the people. He did not know whether we could introduce the system of polling or manhood suffrage, and things of that sort that might be somewhat difficult. At any rate he could say this, that through the instrumentality of the local officers and others the Government would endeavour to become acquainted with the feelings of the masses of the people. Strong as his own opinions were, if he should really be convinced that the masses of the people—in the sense of the lower strata of society and not of the upper classes only, the people on whom the real burden would fall—really preferred to have an increased duty on salt to any other form of provincial, as distinguished from local, taxation, and if such a thing were possible, he would be ready in this and in other things to yield his own opinion to the wishes of the people who were to be taxed. But as respects the salt tax, he did not think it could be done; they must remember that it was the last straw that broke the camel's back.

It appeared to him, however, that we had already gone far enough in the path of irregularity in discussing the question of provincial taxation as distinguished from local taxation, which latter was the subject now before the Council. He had laid before them all the information that he at present possessed, and some considerations in regard to provincial taxation, but he was not now prepared to submit any definite proposition on that subject. The matter now before the Council was a Bill for the purpose of local rating; and therefore if, after the promise he had given hon'ble members that their views should be most fully considered before a scheme for provincial taxation was introduced—if hon'ble members should think fit not to carry on that discussion at present,—he thought it might be desirable to confine ourselves to the consideration of the subject at present before us.

RAJA JOTEENDRO MOHUN TAGORE said that after what had fallen from His Honor the President, he would not at present go into the question of the salt tax. But with regard to the question of local rating, he would only say that as the Bill was not before the Council we could not discuss its principles; but by not opposing its introduction he wished it to be understood that he did not in any way commit himself to the adoption of the measure.

BABOO DIGUMBER MITTER said it was not his wish, as he had already observed, to say anything at the present moment on the principle of the proposed measure, but he might as well observe that if the repairs of the district roads should have been estimated to cost 11 lakhs of rupees, and if the imperial grant for roads be 13 lakhs, as he found from the budget statement, where then was the necessity for a road cess. So far as the construction of new roads was concerned, he thought such works should be undertaken mainly on a self-supporting principle, and towards that end tolls should be levied on the traffic thereupon. Not only did he think this to be the correct principle upon which roads should be constructed and maintained, but that a strict adherence to it would be a great check to the opening of roads which were not dictated by the actual necessities for the time being. (THE PRESIDENT here corrected the speaker by saying that the estimated cost of 11 lakhs for repairs had reference only to imperial and not district roads.) If the estimate, as he now found, had reference only to the repairs of imperial roads, then of course his remarks did not apply.

The motion was then agreed to.

REGULATION OF MARKETS IN CALCUTTA.

MR. SCHALCH postponed the motion, which stood in the list of business, for the consideration of the report of the Select Committee on the Bill for the better regulation of markets in Calcutta.

The Council was adjourned to Saturday, the 1st April.

Appendix.

STATEMENT A.

Statement showing Provincial Receipts and Expenditure, 1869-70 *to* 1871-72.

Department	Actual expenditure 1869-70	Grant 1870-71	1871-72				
			Net Grant, being allotment as per resolution minus proportion of £150,000	Savings, 1870-71	Total	Expenditure	
						Departmental estimate	Bengal Office estimate
	Rs.	Rs	Rs	Rs.	Rs	Rs	Rs
Jails ..	21,44,300	21,82,096	20,57 717	76,469	21,34,186	25,47,006	22,13,673
Registration ..	3,14,065	3,00,093	3,45,226	12,841	3,58,067	8,68,862	3,69,345
Police	58,16,222	55,57,570	52,40,790	1,94,741	54,35,531	55,30,067	54,55,038
Education ...	21,55,558	23,13,846	22,10,247	82,136	22,92,383	25,92,885	24,01,309
Medical	7,01 865	8,97,134	8,45,998	31,117	8,77,115	10,25,371	9,81,637
Printing	3,49,892	4.17,321	3,93,544	14,635	4,08,169	4,67,810	3,20,010
Roads	22,18,280	15,78,000	14,88,100	55,166	15,43,266	*18,69,545	... .
Civil Buildings	13,55,651	13,13,170	10,50,200	39,035	10,89,235	†16,66,817	...
P W Establishment	11,00,000	6,99,800	6,59,900	24,533	6,84,433	8,50,000	8,50,000
Tools and Plant	..	53,800	50,700	1,897	52,597		
Total .	1,61,58,803	1,54,08,830	1,43,42,412	5,32,900	1,48,75,312	1,69,18,393	

* Available Rs 2 3,970
† „ Rs 5,74,161

STATEMENT B.

PROVINCE OF BENGAL

Statement showing the expenditure incurred on Original Works and Repairs during the seven years from 1863-64 *to* 1869-70, *and the grants for* 1870-71 *and* 1871-72.

Years	Civil Buildings			Roads and Miscellaneous Public Improvements			Grand Total.
	Original works.	Repairs	Total	Original works	Repairs	Total	
	Rs	Rs	Rs	Rs	Rs.	Rs.	Rs
1863-64* ..	* 22,91,058	3,70,273	*26 61,331	17,66,863	6,48 099	24,14,962	50,76,293
1864-65 ...	16,17,091	5,71 096	*21,88,097	18,00,000	9,63,510	28,54,110	50,41,207
1865-66	14,00,028	5,27,463	*18,28,091	19,74,954	7,11,294	27,16,248	45,44,339
1866-67	11 37,587	3,37,145	*14,74,732	22,55,350	6,71,144	29,26,494	44,01,226
1867-68	12,50 661	3,94,205	*16,44,866	17,80 623	7,07,948	24,88,581	41,33,447
1868-69 .	18,59,741	3,99,321	*22,59,062	21,19,725	8,35,073	29,54,798	52,13,860
1869-70 .	10,73,386	2,82,206	13,55,651	13,62,851	8,65,429	22,18 280	35,73,931
Grants {1870-71 ..	9,14,013	3,99,157	13,13,170	0,10,000	1,68,000	15,78,000	28,91,170
Grants {1871-72 ..	5,74,161	4,00,000	9,74,161	2,30,970	11,50,000	13,80,970	†23,55,131
Total ...	1,20,18,235	36,80,926	1,56,99,161	1,40,00,946	76,30,497	2,15,31,443	3,72,30,604

* Less Imperial Civil Buildings average 4 lakhs per annum.

† This amount differs from the "Grant for Departments," provided in Financial resolution after reduction, viz. Rs 25,04,014, by Rs 1,48,883, which is the excess of proposed grant Establishment, Tools, and Plant, viz. Rs 8,50,000 over the grant for that service as per resolution above referred to.

F. R. Boyce,
Controller of Public Works Accounts, Bengal.

STATEMENT C.

PROVINCE OF BENGAL.

Statement of Public Works Assets and Estimated Expenditure.

Particulars.	Actuals for the year 1869-70	Grant for 1870-71.	1871-72.					
			Grant for departments	Grant for establishment and tools and plants.	Total grant for the foregoing	Estimated Expenditure.		
						Repairs	Establishment and tools and plant	Balance available for new works
	Rs	Rs.	Rs	Rs	Rs	Rs.	Rs	Rs
Roads and miscellaneous public improvements	22,18,280	15,78,000	14,67,970	4,11,000	18,78,970	11,50,000	4,98,000	2,30,970
Civil buildings	13,55,651	*13,13,170	10,36,014	2,90,117	13,26,161	4,00,000	3,52,000	5,74,161
Total	35,73,931	*28,91,170	25,01,014	7,01,117	32,05,131	15,50,000	8,50,000	8,05,131

* Actual grant less actual for Imperial Civil Buildings, Rs 1,91,830

F. R. Boyce.

Controller of Public Works Accounts, Bengal.

Saturday, the 1*st April* 1871.

Present:

His Honor the Lieutenant-Governor of Bengal, *presiding*

T. H. Cowie, Esq.,
The Hon'ble Ashley Eden,
A. R. Thompson, Esq.,
V. H. Schalch, Esq.,
T. M. Robinson, Esq.,
F. F. Wyman, Esq.,
Rajah Jotteendro Mohun Tagore, Bahadoor,
T. H. Wordie, Esq.,
and
Baboo Digumber Mitter.

CALCUTTA PORT IMPROVEMENT.

Mr. Schalch moved for leave to bring in a Bill to amend the Calcutta Port Improvement Act, 1870. He said the reason for the motion now made was this By the existing Act nine persons must be appointed to be Commissioners; and although at present nine Commissioners had been appointed, and the work had been performed by them, it was now proposed that the charge of the port should be made over to the Commissioners, and it was considered most desirable that the Master Attendant should be made one of the members of the Commission, so that the Commission might receive the benefit of his long experience and advice. At the same time the Government were not desirous of losing the services of the members now on the Commission,; and it would also be necessary to increase the number of Commissioners very slightly, so as to represent interests not now represented in the Commission. For these reasons it was proposed to give power to increase the number of the Commissioners from nine to twelve. The Commissioners themselves whom he had consulted, with the exception

of one, had agreed in the expediency of the measure. They thought it desirable that the Master Attendant should become a member of the Commission, and that their number should be increased, so that they might avail themselves of the power to appoint sub-committees to do a good portion of the extra work which would devolve upon them when the management of the affairs of the port should be entrusted to them, and which would press rather heavily upon them, considering that most of them had their own separate occupations. It was therefore proposed that the Government should have power to nominate not less than nine, and not more than twelve persons, to be members of the Commission.

Advantage had been taken of the opportunity to remedy an inconvenience that had arisen under the wording of the Act. By the sixty-second section of the present Act, it was provided that when a jetty was declared to be ready for receiving, landing, and shipping goods, notice would be issued to that effect, and the Commissioners could then call upon the Master Attendant to compel the masters of ships to take their vessels there for the purpose of being laden and unladen. In nearly all the jetties now ready there were cranes and other appliances for loading and unloading ships; but it was found most convenient that they should be employed only for unloading, because there were greater risks of injuring goods in landing than in loading But the loading of a ship occupied a considerable period of time, and could be almost as conveniently done from cargo boats as from the jetties. It was proposed to allot some of the jetties for the purpose of loading vessels, and to keep the others solely for the landing of goods. The Commissioners therefore thought it necessary to have the power to direct a ship after being unladen at a jetty to be removed to some other jetty or place to be laden. But under the present wording of the law the master or owner of a ship might insist upon its being loaded at the place where it was unloaded, and thus monopolize the jetty to the prejudice of other ships, and thus cause inconvenience to the port. The object of the second section of the Bill was to remedy this inconvenience.

With these few words of explanation he begged to move for leave to bring in the Bill.

The motion was agreed to.

Mr Schalch then said that as the charge of the port would be almost immediately made over to the Commissioners, he thought it was very expedient that the Bill should be proceeded with as soon as possible. He believed that the alterations proposed were not very material, and would not require much discussion and consideration. He therefore applied to the President to suspend the rules for the conduct of business to enable him to proceed with the Bill

The President having declared the rules suspended—

Mr Schalch moved that the Bill be read in Council.

The motion was agreed to.

On the motion of Mr. Schalch the Council then proceeded to the settlement of the clauses of the Bill.

Section 1 was agreed to.

Section 2 was as follows:—

"In the sixty-second section of the said Act, the words "or for landing or for shipping" shall be inserted after the words "landing and shipping" wherever the same words occur in the said section, and the same section shall be read and construed as if the words hereby directed to be inserted therein had been originally therein inserted."

Mr Schalch said that before this section was passed, he would explain that it was proposed by it to give the power of requiring a vessel to be removed from any jetty after it had been unladen. Of course it would be borne in mind that the ship would be liable to serious accident if it was removed after it had been unladen without any cargo or ballast, and no order for her removal would be made until she had sufficient portion of cargo to render her removal safe.

The section was agreed to.

MR COWIE said, with reference to what had been stated by the hon'ble member in charge of the Bill, which certainly related to a matter of great importance to the owners of vessels which had been unladen at the jetties, he proposed to move the introduction of a section to the effect of what had been sketched out by the hon'ble member. He thought that it would be perfectly competent for the Commissioners to say to the shipowner, "We will allow you, before ordering the removal of your vessel from the jetty, to put in a sufficient quantity of cargo to render her removal safe, and if you do not do so, we will put in ballast."

MR WORDIE said that if the Commissioners removed the ship from a jetty in spite of the protest of the master or owner, they would be liable for the consequences, and he therefore did not think that there was any necessity for making any provision for that purpose. Besides, the Commissioners would never move a ship in such a state in face of the protest.

THE PRESIDENT said he thought there would be a considerable difficulty as to the question as to whose duty it was to put ballast on board. If the commercial members were content to leave the matter to the discretion of the Commissioners, he thought that the matter would be very much simplified.

MR. WYMAN said it would be dangerous to move a ship from a jetty without ballast, but at the same time he thought it would be rather hard to require the Commissioners to put in the ballast. The question then was, who was to supply the ballast, and if that point was not decided, a ship might lie at a jetty for weeks.

MR. SCHALCH said the Commissioners had already passed a resolution to the effect that any ship might be required to move from a jetty within twenty-four hours' notice.

THE HON'BLE ASHLEY EDEN said he thought the best way would be to provide that if a ship was not moved within a certain time after receiving notice, a penal rate of demurrage should be charged.

After some further conversation, THE PRESIDENT suggested that the consideration of the Bill be deferred.

MR. SCHALCH then moved that the Bill be referred to a Select Committee, consisting of Mr. Robinson, Mr. Wordie, and the mover, with instructions to report within a fortnight.

The motion was agreed to.

REGULATION OF MARKETS IN CALCUTTA.

ON the motion of MR. SCHALCH, the report of the Select Committee on the Bill for the better regulation of markets in Calcutta was taken into consideration in order to the settlement of the clauses of the Bill; the clauses being considered for settlement in the form recommended by the Select Committee.

Verbal and unimportant amendments were made on the motion of MR. SCHALCH in sections 1, 2, 3, 4, 5, 8, and 9.

Section 10 was omitted.

Verbal amendments were made in sections 12, 14, 15, and 16.

Section 17 gave power to raise loans for the construction of markets "on the security of the lands and buildings thereon, and of the rents, tolls, and fees payable in respect of such markets, *and the collateral security of the taxes and dues imposed and levied on account of the municipal fund under any Act passed in that behalf, or of a portion of them.*"

RAJAH JOTEENDRO MOHUN TAGORE moved the omission of the words in lines 12 to 15—"and the collateral security of the rates and taxes imposed and levied on account of the municipal fund under any Act passed in that behalf, or of a portion of them." He had already stated the objections he entertained to the pledging of the general municipal rates for the establishment of a market constructed for the benefit of only a portion of the community, and he need not therefore go over the same ground. It had been urged that the proposed market, for which the aid of the Legislature had been invoked, was to be a part of a general scheme under which markets would also be constructed in the native part of the town. He thought that, as far as the native part of the town was concerned, the existing markets were suffi-

cient for all purposes, and no necessity was felt for the erection of new markets there. The funds of the municipality were by no means in a flourishing condition, and it would not be for a very long time to come that the municipality would be in a position to erect other markets in other parts of the town; and he believed there were other wants more pressing which might be attended to as regards the native parts of the town, and instead of supplying those wants, he thought it would be unjust to give them what they did not want. Besides, it was admitted in the letter of the Chairman of the Justices that the proposed market was intended to supersede the Dhurrumtollah market, and to supply the special wants of the European section of the community. Under these circumstances he thought it would be unfair to saddle the general body of the rate-payers with the risk and responsibility of a speculation the success of which was extremely doubtful.

MR. WYMAN said the proposal that had been made to the Council virtually amounted to the vetoing of the Bill, for if the security of the rates and taxes was not guaranteed the Government would not consent to lend the money required for the construction of the proposed market. The amendment of the hon'ble member amounted to raising the whole question as to whether there should be a municipal market or not: this point, he believed, had already been fully discussed, and the necessity for the construction admitted. He thought that the proposed market could hardly be called a European market, for provisions consumed by natives would equally be sold there, and the native community would no doubt avail themselves of the convenience afforded by a well-regulated market. As to the question of pledging the general security of the rates and taxes, he thought that was rather a matter of form, as there was no doubt that the municipality would take good care that the market should be so conducted as to support itself. Considering also that the native community were fairly represented in the municipality, and that the proposal to establish a market emanated from that body, he thought that it was only fair that if the loan was asked for, the Government should have proper security for re-payment. As he had said before, the motion before the Council amounted to vetoing the Bill altogether, and he should be sorry to see it carried.

THE HON'BLE ASHLEY EDEN said that he was not prepared to support the amendment, for this reason that this measure had already been determined upon by the Government on a full consideration of all that was to be said against it. Yet he might say that he had the strongest sympathy with the native rate-payers as to giving the collateral security of the general municipal rates and taxes for the repayment of the advance made by the Government for the construction of this market, which, however plausibly people might deceive themselves into an argument to the contrary, we all really very well knew was a market entirely and exclusively for the benefit of the European and East Indian community. Whatever facilities the market might afford for the sale of articles consumed by certain classes of the native community, and however well-regulated its management might be, it was contrary to the habits and feelings of the natives to purchase their food in the European markets, where meat was killed and sold which no native would touch. For their own food they had their own markets, and would keep to them. The class who used European food were a most limited section of the native community. With this fact in view it seemed to him not quite honest to contend that the market was intended for the benefit of the natives as much as for Europeans. There, no doubt, was a general feeling on the part of the native rate-payers that the municipality had spent the far greater part of its income for the improvement and benefit of the European part of the town. He thought it was a great pity and bad policy to aggravate them still further, and give an appearance of justice to the complaint by the establishment on the security of the general funds of a market for the exclusive benefit of that portion of the town.

It was said that the rents and tolls derived from the market would certainly cover the cost of its construction, and therefore that the security of the rates and taxes was merely nominal and a matter of form. All he could say in reply to that was, that if such was the case he thought it would be better to avoid all this irritation for what was held to be a mere matter

of form; and if a market was really a necessity, which he did not think was altogether established to be the case, and was known to be a remunerative speculation, it was very much better to allow the market to be constructed by a public company. He felt, moreover, that the town, especially the native portion of it, was in such a state, that there were a great number of essential municipal improvements which called for attention at the hands of the municipality long before the improvement of markets should be undertaken. The strongest reason which he had for doubting the wisdom of the present proceeding was that he felt certain that as soon as a market was constructed, it would be found that it would not pay. In this town especially it was impossible to enforce trade out of its natural and customary channels. If the Justices had learned any thing by experience, he thought they ought to have learned that; and he felt sure that the next step would be that the Justices would ask for power to establish farms and slaughter-houses to enable them to provide the market with meat, as they would not be able to induce the regular suppliers and purchasers to have recourse to the market.

On all these grounds he thought that this proposal to establish a market was a mistake, and would end in failure and expense and meddling with trade, the end of which it was impossible to foresee. But at the same time, although he took this opportunity of expressing his opinion on the subject, lest he should hereafter be thought to have concurred in the propriety and wisdom of the establishment of this market, he would not by his vote impede an experiment what Government apparently desired to see tried.

Baboo Digumber Mitter said, he should have had no objection to urge to the establishment of the proposed municipal market if he had felt at all sure that it would result in success. He dared say hon'ble members had seen the petition presented on this subject by the rate-payers of Calcutta, and containing upwards of 2,000 signatures. He would nevertheless draw the special attention of the Council to that part of it wherein the petitioners in substance said, that to ensure success in the establishment of a market, it was not enough that a piece of land should be bought and some buildings constructed thereon. The owner must see it regularly and sufficiently provided with wholesome articles of food, and towards that end he must make heavy advances to contractors; and until the market was fairly established, he must himself buy up at remunerative prices such articles as did not find other purchasers. The question then was, whether the municipality was prepared to do this in the face of the active opposition which it must encounter, and consequently at the imminent risk of incurring heavy losses. He thinks the history of the Sealdah market should be a sufficient warning to any corporate body undertaking such a work. It was a mistake to suppose that that market did not succeed by reason of its defective locality. He had closely watched the rise and fall of that market, and his belief was that its failure was chiefly, if not solely, due to the deficient supply of meat, and to some extent possibly to the combination of the *khansamas* not to make their purchases there. No butcher of any respectability could be prevailed upon to offer his meat for sale there, and the Suburban Municipality was in consequence driven to the necessity of calling in the aid of Mr. Tayler to keep the market supplied with meat sent down by rail from Patna. In this way the supply was kept up for a time, but the resources of Mr. Tayler soon failed, and the market had to be closed in consequence of the heavy losses already sustained. Now the question was, whether the same rôle would not have to be played out in the case of the proposed market, and whether the Justices were prepared to undertake the office of purveyors, which, to ensure success to the market, they could not well refuse. He would be the last man to grudge to our European fellow townsmen a market such as they evidently felt the want of, unless he felt pretty sure that it would never maintain its existence without drawing very largely upon the general funds of the municipality, contributed, he need not say, by all classes of the people, the majority of whom were not expected to participate in the benefits held out by the proposed measure.

Mr. Cowie said he should oppose this amendment on a very short ground, which was that it appeared to him, with all respect to his hon'ble friend who had suggested the amend-

ment, that it was nothing less than absurd and contradictory. He was not going to repeat the arguments he had used on a former occasion; but he would point out that as the Bill stood, and would stand with the rejection of this amendment, the Council had been recognizing, in sections 13 and 17, the principle that the acquisition of land for the establishment of municipal markets was a proper municipal purpose; and if that was admitted, he was at a loss to perceive what there was in point of principle to object to the provisions of the section by which the raising of money for admittedly proper purposes was to be secured by the rents, tolls, and fees of the markets for which the money was to be raised and the collateral security of the municipal fund. The section as it stood must be taken in connection with the addition to section 20 which the hon'ble member in charge of the Bill would propose, by which the interest on the monies borrowed for the special purpose of constructing a market would in the first instance have to be paid out of the rents, tolls, and fees received from the market, and not in any way from the municipal fund. But as the Bill stood, he was at a loss to understand why we should admit that the construction of markets by the municipality was a proper purpose, and at the same time ignore the propriety of securing the interest of the money borrowed for that purpose on the collateral security of the municipal fund.

His Honor the President said he was perhaps less entitled than any other member of the Council to give an opinion on this Bill, from not having the advantage of listening to the earlier discussions on it. But it appeared to him that without a doubt the amendment proposed by the hon'ble member would be absolutely fatal to the Bill, and he therefore wished to say a few words on the subject.

The hon'ble member on his left (Mr. Eden), with a discretion much to be commended, was about to divide his favors on this question, inasmuch as he made his speech on one side, and said he would vote on the other

His Honor would address himself to one or two points which fell from the hon'ble member. He said that if you once began to make markets, you might establish farm-yards and the like, and a great many unreasonable things. But His Honor thought that in all such matters the Council must draw a line between what was reasonable and what was unreasonable. If we proposed to do a reasonable thing, it was not a sufficient argument against the proposition that you might do unreasonable things also; and the question therefore was, whether the proposal before the Council was reasonable or not; whether the establishment of a market was within the ordinary scope and functions of a municipality. Looking to other parts of the world, undoubtedly a proposal of this kind was within the scope of the functions of a municipality—at least he might say so from the example of several other countries. It was a great object that a great town like this should have a properly constructed and well-regulated market.

It seemed to him that there were enormous objections to trusting a great institution like a market to a trading company. Whatever conditions you might make, circumstances might arise which had not been provided for, and you might find yourselves very helpless against the company in two ways. One was this, which had very frequently occurred, when a company had undertaken obligations which they were unable to fulfil; and the other way was that, if the thing succeeded, they might take advantage of a sort of monopoly to add to the dearness of provisions, and impose other hardships on the people of the town in which the market was established. Therefore it seemed to him that the question was, whether the establishment of a market was a reasonable and profitable undertaking for a municipality; and if it was, ought it not to be entrusted to a public body like the Justices?

Then the question came whether it was reasonable to saddle the municipality with a burden. His Honor entirely sympathized with the opinions expressed with regard to the burden that might be thrown on the tax-payers, and he should be sorry to saddle the municipality with any burden that would increase the present municipal rates. If we thought that the market would not pay its own cost, we ought not to pass this Bill; but it seemed to him that

if a ny public market was likely to pay, it would be such a market as it was now proposed to establish. The Sealdah market, as every body knew, was situated in a very remote part of the town: it was very far removed from the centre of the town. But he understood that the site now proposed was in the very centre of the town, and he understood that it was reasonably hoped that it would pay if the expenditure was properly regulated and the management efficient.

Then it might be said that if you thought that the market was likely to pay, why not leave the money to be borrowed on the security of the market itself? He would answer that no reasonable creditor would be likely to lend money on such security, for it might be that a municipality might indulge in costly structures and gothic architecture and other extravagance, and construct a market which would not pay; whereas if we placed on the municipality the eventual liability of having to pay from their rates and taxes, it would afford better security for good management, and it would be hoped that they would not suffer. In that view he was inclined to support this Bill, supposing the financial expectations to be well considered.

Then came the question between European and Native The native members were inclined to say, and the hon'ble member on his left supported them in that view, that this was a market for Europeans and not for the Natives, and therefore we ought not to put the risk on the general fund. His Honor was not prepared to enter on the question whether natives would or would not derive large benefit from the proposed market. He could not say; he hoped they would. But he ventured to deprecate the introduction of questions of that kind in a discussion of this sort. He fully admitted the reasonableness and plausibility of the arguments which had been adduced by hon'ble members; but at the same time he felt that those views raised very difficult questions which would affect every municipality in India, and that it would be impossible to carry on any municipality in the harmonious and catholic manner in which he hoped our municipalities would be conducted if these views prevailed, because you would have two classes who would work against each other, and the result would be that nothing would be done at all. Therefore he ventured to submit that in this matter he should desire to eliminate all those class questions from discussions of this kind, and to look at the matter in a broad view, namely, whether this was a reasonable undertaking for a municipality to undertake, and he hoped hon'ble members would be disposed to look at the matter in that view. If hon'ble members now consented to the municipal funds being pledged for the establishment of a market which was principally suited to the wants of the European community, possibly at some other time hon'ble members would have some proposition for enabling themselves and their compatriots to be more comfortably burned when that day unhappily came, or some other question affecting the Native community, when he hoped they would find that the European community would not be anxious to raise class questions. He hoped there would be a good deal of give and take in these things. On that ground he hoped that the hon'ble members to whom he had referred would not divide the Council on that particular view.

Rajah Joteendro Mohun Tagore said, after what had fallen from His Honor The President, he would beg leave to withdraw his amendment.

The section was then agreed to.

Sections 18 and 19 were agreed to.

Section 20 was agreed to with the addition of the words "and the interest of monies borrowed under this Act shall in the first instance be payable out of the rents, tolls, and fees received under this Act."

Sections 21, 22, and 23, and the schedule, were agreed to.

The further consideration of the Bill was postponed.

His Honor the President said, before announcing the adjournment of the Council for a fortnight on account of the Easter holidays, he should like to take the opportunity of expressing his extreme regret that unfortunately the most valuable member of Council who sat on his left (Mr. Eden) was not likely to sit again when the Council met. He was quite sure

that he expressed the opinion of the whole Council when he said that his loss to us would be excessive. Personally they would all feel his loss, and he was sure that no member of the community would be better able to feel that loss than the members of this Council. Our only consolation was, that if he was going to leave us, he was going to a higher sphere, where he would have a wider scope for exercising those administrative talents which his long experience would enable him most usefully to exercise.

The Council was adjourned to Saturday, the 15th April 1871.

Saturday, the 15th April 1871.

Present:

His Honor the Lieutenant-Governor of Bengal, *presiding.*

T. H. Cowie, Esq.,
A. R. Thomson, Esq.,
S. C. Bayley, Esq.,
V. H. Schalch, Esq.,
Moulvy Abdool Luteef, Khan Bahadoor.
T. M. Robinson, Esq.,
Rajah Joteendro Mohun Tagore Bahadoor,
T. H. Wordie, Esq.,
and
Baboo Digumber Mitter.

NEW MEMBER.

Mr. Bayley took the oath of allegiance, and the oath that he would faithfully fulfil the duties of his office.

REGULATION OF MARKETS IN CALCUTTA.

Mr. Schalch moved that the report of the select committee on the Bill for the better regulation of Markets in Calcutta be further considered in order to the settlement of the clauses of the Bill.

The motion was agreed to.

On the motion of Mr. Schalch a verbal amendment was made in section 19.

His Honor the President said, before the Council proceeded further with the consideration of the Bill, he should like to go back to section 10, and to say that he had considerable doubts as to the propriety of that section first in regard to the language of the section, which possibly might subject the Council to the imputation of including dogs and cats in the term "domestic animals." But there was another objection to the section, which he thought was more serious. For by this section the Council would appear to be deciding in an indirect way on a question which was a subject of serious consideration, namely, the subject of licensed slaughter-houses; and personally, he thought it would be better to leave this section out of the Bill. By doing so the Council would both avoid the difficulty in regard to the term "domestic animals," and the imputation of dealing with a difficult subject in a summary manner, and thus leave the question of slaughter-houses to be dealt with on its merits. The same objection was felt to the Bill which had been brought in by the hon'ble member on the left (Moulvy Abdool Luteef), which also dealt with this subject in an indirect manner. His Honor's impression was that it would be better to deal with the subject of slaughter-houses distinctly, and by itself. He himself did not propose to move any amendment, but would merely throw out the suggestion, and leave it to hon'ble members to move any amendment in regard to this section or not, as they thought fit.

MR. ROBINSON said there was one matter generally included in Bills of this kind which was not provided for in this, and if we provided against the evil intended to be guarded against by section 10, that no meat improper for human food should be brought into the market, he thought the matter to which he alluded should also be provided for. The Bill did not provide for the appointment of authorized persons to examine the meat brought into the market, and to see whether it was in a state fit for sale for human food. If a clause of that kind were introduced instead of section 10, he thought it would meet the difficulty, and avoid the objection pointed out with regard to section 10.

MR. SCHALCH remarked that this Bill was to be read with Act VI. of 1863, under which the Justices had the power to inspect markets and to reject and cause to be confiscated any meat that was unfit for human food. They had also power to make bye-laws for the regulation of markets; and having these powers, it was thought unnecessary to import such a provision as had been referred to in this Bill.

MR. ROBINSON said, that being the case, he agreed with His Honor the President that section 10 was unnecessary, and he would therefore move that it be omitted.

MR. SCHALCH said he would rather object to the omission of section 10, because as the law stood, it had been decided by the Council that no animal should be killed for human consumption except at an authorized slaughter-house, and by this clause a further guarantee was given that no meat except such as had been so obtained should be introduced into any market. By the introduction of this provision we were carrying out no new principle; we were merely giving greater effect to the law which already existed.

MR. COWIE said, inasmuch as this section was at any rate open to the critical objection taken as regards its language, and would require amendment; and also, having regard to the circumstance that the object which seemed to be wished to be attained by this Bill was really something which appertained to the proper management of markets, he thought that, if we looked at this Bill coupled with the sections of the general Act under which bye-laws were passed, it would be better to omit the section now under consideration: and, moreover, it occurred to him that it might be doubtful whether it would be a just or equitable mode of carrying out the object that all animals intended for human consumption should be killed at a licensed slaughter-house. Besides, as we had an implicit promise from the hon'ble member on the left (Moulvy Abdool Luteef) that he would propose a more specific provision than the existing state of the law provided regarding slaughter-houses, he (Mr. Cowie) would support the amendment for the omission of section 10.

Section 10 was then omitted, and the preamble and title were agreed to.

CALCUTTA PORT IMPROVEMENT.

MR. SCHALCH moved that the report of the select committee on the Bill to amend the Calcutta Port Improvement Act, 1870, be taken into consideration in order to the settlement of the clauses of the Bill, and that the clauses of the Bill be considered for settlement in the form recommended by the select committee.

The motion was agreed to.

Sections 1 and 2 were agreed to.

Section 3 provided that if after thirty-six hours' notice a vessel was not removed from a jetty, the Commissioners might charge for "every complete space of twenty-four hours," after the expiry of such thirty-six hours, during which the vessel shall remain at the jetty, such sum, not exceeding fifty rupees, as they shall think fit.

MR. SCHALCH said the intention of this section was that a vessel should be removed within thirty-six hours after notice. But by the way in which it was worded, practically the vessel would receive not only the benefit of the thirty-six hours' notice, but a further benefit of twenty-three hours before the penal rate of demurrage could be charged; inasmuch as the section

provided that the Commissioners would only be authorized to charge a sum not exceeding fifty rupees for "every complete space of twenty-four hours" after the expiry of the notice. He would therefore propose to amend the section by omitting the words within quotations, and substituting for them the words "each day of twenty-four hours or portion of such day," which would make the demurrage charge take effect immediately on expiry of the notice.

The motion was carried, and the section as amended was agreed to.

Section 4, and the preamble and title, were agreed to.

On the motion of Mr. Schalch, the Bill was then passed.

HOOGHLY BRIDGE.

Mr. Schalch, in the absence of the mover of the Bill, applied to the President to suspend the rules for the conduct of business, to enable him to move that the report of the select committee on the Bill for the construction of a bridge across the river Hooghly, between Howrah and Calcutta, be taken into consideration in order to the settlement of the clauses of the Bill. He thought it was very necessary that this Bill should receive the early attention of the Council.

His Honor the President said, that in consenting to suspend the rules for the conduct of business, he wished to explain to the Council that he was by no means anxious to underrate the very weighty report of the committee, and the difficult questions which arose under this Bill; nor was he anxious that they should be unduly hurried over. But as Mr. Bradford Leslie, the eminent engineer who had been concerned in the design of this bridge, and whom the Government of India proposed to entrust with the construction of the bridge, was about to leave Calcutta, His Honor was anxious that the Council should discuss the Bill before Mr. Leslie left, so that the Government might receive the benefit of his assistance on any points on which the Council might consider information necessary. The Bill would be taken up for discussion; but it would be understood that nothing would be unduly pressed on hon'ble members as respects their final decision if they were not prepared to decide any particular questions at this meeting.

Mr. Schalch then moved that the report of the select committee be taken into consideration in order to the settlement of the clauses of the Bill, and that the clauses be considered for settlement in the form recommended by the select committee.

The motion was agreed to.

The consideration of section 1, the interpretation section, was postponed.

Section 2 was agreed to after a verbal amendment.

His Honor the President said, that before proceeding with section 3, he would submit to the consideration of the Council a new section, which raised, in a form more precise than in the existing sections of the Bill, what was really the main question in respect of this Bill, and the determination of which would, he believed, settle the question whether this bridge was to be constructed or not. The Council were probably by this time aware that an agreement had been entered into between the Government and the East Indian Railway Company, by which certain tolls were to be levied on goods passing into or from the railway station at Howrah. It was somewhat a matter of regret that in the Bill as originally drawn this condition of, he might say, the existence of the bridge was somewhat obscurely stated. The report of the select committee had not only made clear the object and effect of this section of the Bill in respect of this matter, but, as also happened, the majority of the members of the committee had disapproved of that vital provision of the Bill. Now, as His Honor had said, he thought it very desirable that there should be no doubt or mistake with regard to the character of that provision; and therefore, with every respect to the select committee, he proposed to move for the consideration of the Council a

new clause, which would put that provision in what he hoped would be an unmistakeable form. The section which he proposed was this:—

"Towards meeting the charges incurred in the construction and maintenance of the said bridge, there shall be levied the following fees on goods and passengers conveyed on the railway of the East Indian Railway Company into and from their station at Howrah, viz.—

On every maund of goods	...	...	...	2 pie.
On every passenger	..	...	...	3 pie.

Provided that the Lieutenant-Governor of Bengalmay at any time lower the said fees, and that the said Lieutenant-Governor may also exempt any goods or any passengers from payment of the said fees."

The clause had not been professionally drawn. He had used the term "fees" in contradistinction to the term "tolls," because the sum to be levied under this section was not quite strictly a toll; for this reason, that the fee would be levied on all goods arriving at or leaving Howrah, whether they crossed the bridge or not. That, no doubt, seemed in theory a somewhat anomalous provision; and the majority of the select committee had considered it so inadmissible a provision, that they recommended that it should be omitted. His Honor thought it necessary to submit to the consideration of the Council a very important fact. As he had already said, the real question before the Council was this, Should the bridge be constructed with this provision, or not constructed at all? because he was in a position to show the Council that that was the real question at issue. He might be in some degree to blame for putting the select committee in this position, because, being new to office and to this Council, he was free to admit that he did not himself at first fully understand the full bearing of that provision; but it must be made quite clear that if this provision was not passed, the project for the construction of this bridge must inevitably fall to the ground. The reason for that assertion was that, in a financial point of view, the Council must remember that we were entirely dependent on the Government of India. We had no funds of our own with which to construct this bridge, and unless the Government of India lent the money, we could not construct it at all. Now, he might say without any breach of confidence that the Government of India generally, and the head of the Government, the Viceroy, in particular, took a very strong view on this question. They said that for local purposes they were quite willing to lend the money, but for that money they required full security: they did not think that for local purposes it was right that they should riskimperial money. They were willing to assist municipalities; they were willing to assist even individuals in some respects; they were willing to assist Trusts and other public bodies: but they required sufficient security for their money. Now, the view taken by the Government of India was this, that from the mere receipt of tolls on the bridge they could not be sure of the repayment of their money. It might be said that the bridge would pay itself: it would not be for him to say that it would not. He hoped it might pay. But we could not give the Government of India an assurance that they were willing to accept, that from the mere ordinary receipts from tolls on the bridge, the capital money advanced for the construction of the bridge would be secured. That being so, the Government of India said that unless they could have an additional security, they could not give the money. In this respect the bridge question was, he might say, identically in the same position as the market question which was discussed the other day. Certain members of the Council had observed at the time, and not unreasonably, that it would be better that the security for the money advanced for the construction of the market should be confined to the dues and rents received from the market itself. To that it was replied, that if you insisted on that condition the market could not be constructed, because we could not get the money. Similarly, with regard to this Bill he had to say that we could not get the money unless we could give the Government of India some collateral security for their money beyond the ordinary tolls received from the bridge. Well, the question arose, What collateral security could we give? He thought that the hon'ble members who made those observations the other day, and he

believed all hon'ble members of this Council, would be inclined to say that the municipality would not be prepared to undertake this liability. It might be a question, and it was a question which arose under the 12th section of this Bill, whether the Port Trust Commission would be inclined to undertake this liability, and make the charge a charge on the port-dues of Calcutta, whereby the shipping of the port should be burdened for all time with the liability for the charges of this bridge. He was inclined to believe that the 12th section of this Bill had slipped somewhat inadvertently into the Bill, and that the Port Trust Commission were not prepared to undertake this liability. The Government being anxious, for the sake of Calcutta, that this bridge should be built, and being anxious at the same time to secure themselves, had proposed to obtain this collateral security through the East Indian Railway Company. The Railway Company had said, We are willing to put a tax on all goods coming out or passing through the Howrah station for the benefit of the bridge. And the result was, that whereas the receipts from tolls on the bridge was a somewhat indefinite quantity, which we could not exactly calculate for the satisfaction of the Government of India, the levy of tolls on goods passing through the railway was in some sense a definite quantity,—that was to say, we knew the quantity of goods which at present came to, and went from the Howrah station. We knew that with the progress of the country, and the general advance of things, that amount of traffic would not be diminished, but, on the contrary, would be increased; and therefore the Government of India accepted with confidence the calculation that a certain very large sum would be received from a tax on goods coming into and passing through Howrah, if the Council would be pleased to pass this section of the Bill.

He had received, in addition to the report of the select committee, a report from the Port Trust Commissioners, who were requested by the Government to consider the project for the construction of this bridge. He regretted to see that they also, as well as the committee of the Chamber of Commerce, were adverse to this provision; but he was apprehensive that the Port Trust Commissioners and the Chamber of Commerce, as well as the members of the select committee on this Bill, had not fully realized to themselves the fact that if this provision was not passed, the project would altogether fall to the ground. And therefore, notwithstanding the adverse opinions expressed regarding this provision, he was anxious to ask the Council to consider and deliberate very seriously before they rejected this provision. He would ask the Council to consider that, in fact, although the provision was one to which great objections might no doubt be taken, in practice it would amount to a sort of partial *octroi* upon goods going into and out of Calcutta and Howrah, and that the charge proposed to be made was very little indeed. The charge amounted to about four annas and six pies on the ton, or something like six pence per ton. The principal objection to this charge appeared to be in regard to the article of coal. He thought he was right in saying that this tax upon coal was in reality not really so heavy as the citizens of London submitted to in regard to coal brought into the City: they submitted to a tax on coal which was levied by the City of London for the benefit of the city alone, and the tax was much heavier than would be paid under this Bill by those interested in the trade in coal. Then the question for the Council to consider was, whether, in consideration of the convenience and advantage the inhabitants of Calcutta would derive from the construction of a bridge, they were willing to submit to this very small impost. Six pence per ton on coal and all other goods would not only provide the means of crossing these goods, but the bridge would also be an immense convenience to the residents and inhabitants of Calcutta who crossed the river on foot or in carriages. He should be very sorry to raise any question here of Native against European in regard to any such enterprise; and this was a point the consideration of which an hon'ble member was good enough on a former occasion to withdraw in a most handsome manner. But he must say that, if we took it as a question of the interests of the residents of Calcutta, putting apart the interests of the commercial gentlemen, who were probably the best

judges of their own interests as respects the question of goods, it would be for them to consider whether, on the whole, it would be desirable to submit to this arrangement or not. He would say that in regard to the inhabitants of Calcutta his impression was that this provision was extremely favorable—that they would obtain a very great advantage at a slight cost to them. They would have a bridge ready at their hands, and the only additional cost would be a very slight tax on coal and other goods coming into or going from the railway station at Howrah, which they did not at present pay, but which would be far short of what they paid for the loading and unloading of boats and the crossing of the river. He could say without fear of contradiction that the proposed tax would be a mere fraction of what was now paid for crossing goods by boats, and cartage from the railway to godowns on this side the river.

This being the state of things, he should be very sorry indeed, by mere force of official votes, to force a Bill of this kind on the Council, because this Bill was eminently a local Bill. This project was designed solely and entirely for the benefit of the inhabitants and the merchants of Calcutta and Howrah. Therefore, if it was the case that the gentlemen who represented these local interests were distinctly opposed to this Bill, he should be very sorry to override their opinions by the mere force of official votes. One gentleman, who held an official position and was a member of the select committee, had committed himself to an opinion adverse to this provision. But the members of this Council who were members of the immediate executive Government had determined to vote in favour of this clause, and he would put it to the other members of the Council that if, on a fair consideration of all the circumstances, they should decide to reject this clause, the responsibility of the falling through of this project, and the loss of the bridge, would rest upon them, and not with the executive Government; and in that view he would leave the Council to admit or reject this clause.

Perhaps it was not desirable that this question should be decided in this hurried and off-hand way: it was desirable that more full consideration should be given to it; and although he had now moved for the insertion of this clause in order that it might be discussed, it might be considered desirable that the final consideration of it should be postponed. In the meantime he hoped hon'ble members would now say what they had to say on the subject, and so far as the question could now be discussed to-day, that we should now discuss it.

Mr. Robinson said the manner in which His Honor the President had put the amendment of clause 3, and which he (Mr. Robinson) understood was to be ultimately proposed for the consideration of the Council, was one which he thought all the members of the Council must fully appreciate. As he understood the amendment, it maintained fully the principle contained in clause 3 of the original Bill, to which he had objected as a member of the select committee. He would therefore make a few remarks on the general subject of the scheme for the construction of a floating bridge.

A floating bridge was originally proposed to be made by a Company. He was not one of the first projectors of the bridge, or in any way concerned with the original design; but when that design had been matured, and arrangements had been made for the submission of a distinct proposition to the Government of India, asking its sanction for the construction of a floating bridge, the gentlemen who originated it came to him and asked him to join them in the enterprise. He did so, and from that time he had been aware of the communications that had taken place with the Government of India on the subject. He believed that at first there was a general idea that the bridge would pay, and that consequently the Government of India thought that the best thing they could do would be to make the bridge themselves. When he took up the subject he was not told that in so many words. But what he understood was, that the work being looked upon as an imperial work—not a local work for the benefit of Calcutta, but for the benefit of the public in general who travelled by the East Indian Railway, and who carried on business over the whole of India through the agency of the Railway Company—it was considered that the undertaking

should be an imperial one, and that the public should be taxed at all events as little as possible for the use of this bridge, for which it was clear they must pay if it were constructed by a Private Company for the purpose of profit. In point of fact, the term used was that it was to be a "free bridge" That was subsequently changed, and a scheme was devised of bringing the Railway Company into the question, and allowing them to collect tolls for the bridge. It appeared to him that in the way this arrangement was proposed to be carried out with the East Indian Railway Company, instead of the bridge being in any way free, or instead of the public being in any way taxed or troubled by the bridge to a less degree than they would have been had it been constructed by a Company, a most ingenious contrivance had been hit upon to make the bridge a tax upon the public by introducing the plan that every one using the railway should pay, whether they used the bridge or not.

Now, with regard to the principle of charging for all goods simply because they came into a railway station, he should be extremely sorry to see this Council commit itself to a principle which he believed was utterly unheard of hitherto. Surely, it was striking at the root of all commercial arrangements if men engaged in business were made to pay for the benefit of that which they did not use or require to use Putting the matter in a practical way, he would say this: Suppose he imported a hundred bales of piece goods from Europe and landed them at Howrah, where he carried on his business. Three months after he had landed them there, he required to send them up to Delhi, and because he wanted to send them to Delhi, he was made to pay something, however small, for the use of this bridge. Putting it in that plain and simple way, he never could reconcile himself to vote for such an unusual and unfair charge upon commerce.

Another objection from a commercial point of view was this: This charge was to be a uniform one of so much per ton for everything, whether it was worth a rupee or a hundred rupees. This was a principle quite new and utterly unjustifiable. He did not think that such a principle as this was ever sanctioned by legislation in any country in the world. There must be some difference of charge imposed on goods of great value and goods of less value; and this applied especially with regard to coal, which was here of very little value. The price of coal was now but twenty shillings per ton, and, as he understood it, they would be made to pay for the construction of this bridge about six pence per ton, or two and a half per cent., on the value of all coal brought into Howrah. Moreover, on this special article it would be a totally gratuitous tax; because it happened that the amount of coal brought to Howrah was very large, and the amount of coal which found its way into Calcutta was extremely small. The bulk of the coal was used on the other side of the river—on board of steamers, and in mills and factories far beyond the limits of the port. In that instance there would be a special tax fixed upon this article of coal for a purpose from which the trade in it derived no sort of benefit whatever.

It had been put very forcibly before us that if we did not agree to this extraordinary imposition of charge, the bridge could not be constructed at all. Well that, he must take leave to say, was correct as the matter stood now; but referring to what he had said before as to the original project for constructing a bridge, the projectors (and he believed the parties were quite ready and able still to construct the bridge) never made any demand of this kind, and he was certain they never contemplated making it, and it had never entered into their minds to ask the Government to make any such exceptional charge upon the public. But they would be perfectly satisfied to construct the bridge on the faith of making a very excellent profit out of the ordinary tolls on the traffic on the river. It seemed to him, if he was not going beyond his proper province in making the remark, that the principle on which the Government desired to construct works of this kind was one on which they could never on any possibility be carried out. It seemed to him that somebody was wanted to say that, if this bridge was made at a certain cost, it would yield a certain return. He thought that it was utterly out of the power of man, either with regard to this bridge, or with regard to any work

of the kind which ever was constructed or ever would be constructed, to answer any such question closely. He knew that in commercial enterprises men did not look, whether such enterprises consisted in the construction of a bridge or a railway or a canal, simply to the existing facts, and make hard calculations upon paper that there was a certain amount of traffic on a certain line of communication, and that this traffic would give a certain amount of profit on a stated expenditure. No commercial man ever limited his view to such calculations. But what every man did look to was the general improvement of the traffic the contemplated work was intended to assist. He took a broad and general view of the resources of the country through which his work was to pass, or of the places it was to connect, and he looked to that improvement which experience showed was always brought about by works judiciously entered upon, and he depended upon that improvement almost as much as on existing data for profits to be derived from the construction of the work.

It seemed to him that if this Council consented to the principle of this clause, it would even then be no satisfactory assurance that the construction of this bridge would be permanently profitable. He thought that not only was the principle contained in this section one to which this Council could not be expected to assent, but he also thought that it was one which was entered upon on entirely mistaken premises; and with great respect to the views of those who thought differently, and who would wish to see this principle carried out, he must say that he must offer to it to the last his most strenuous opposition.

Mr. Wordie said, it appeared to him clear that the first principle in arranging for the maintenance of works of this description was that those who used them should pay for the benefit they derived from them, and that any other principle was unjust and unfair. The proposal made in this third section was that commercial interests were to be specially taxed for the benefit of the public at large. That such a proposal should not be opposed by the general public did not occasion him surprise; but certainly amongst the commercial community the feeling was adverse to the proposition, and he did not understand how it could be otherwise. That the Railway Company also did not object, was not to be wondered at. It seemed to him that neither the sanction nor the dissent of the Company could form an argument in the matter, for they were under no guarantee to the Government to bear a part of the expense, and the concession they made of collecting the dues without charge was for their own convenience as well as for that of the public using their line. It was pointedly put to the Council that if this clause was not accepted, there would be no bridge at all. He would meet such a question by saying, let there be no bridge, if it was to be raised on such an inequitable basis. He did not hesitate to assert that the principle contained in the proposed clause would meet with universal dissatisfaction amongst the mercantile community, and that the general feeling would be rather to suffer the inconveniences which now existed than willingly to submit to this new evil.

Then again, it was stated that the matter was wholly one of profit and loss. If it could be shown that from the tolls and dues raised in any other manner than that proposed by the Bill, the expense of the maintenance of the bridge would be met and leave some profit, then he understood that this section would be abandoned. The report of the Port Trust Commission, he believed, showed pretty clearly that another mode could be devised whereby the principle complained of might be expunged. He did not know whether that report had been circulated to the members of this Council, and for that reason he agreed that it would be well to postpone the section till the information supplied by the report had been duly considered by members. If it happened that the views expressed in the report met with the approval of the Council, he hoped that the proposal made by the Commissioners would be adopted, and that the principle which had caused so much dissatisfaction would be given up, and the erection of the bridge proceeded with.

Mr. Schalch said, having as a member of the select committee on this Bill, and as a member of the Port Trust Commissioners, to whom the question had been referred, recorded his

opinion against the expediency of this proposition, he would wish to say a few words on the subject. The view taken by the commercial members of this Council had been so distinctly stated, that it was not necessary for him again to refer to it. He would merely say that when this subject was under the consideration of the Port Trust Commissioners, they consulted the Chamber of Commerce, whose opinion was most decidedly against the adoption of this mode of charge, and that opinion was most thoroughly and entirely concurred in by every member of the Commission. And he was quite certain, as far as he was concerned, although he was an official member of the Council, that it was his duty to support it.

And here he would, with all due deference, beg to offer a remark or two upon what had been stated when the new section was laid before them, namely, that the responsibility of the project falling through would rest on those members of this Council who objected to this principle. He did not think that that could be fairly said, unless the conditions which they rejected were just and honest. But he thought that when the conditions to which they were required to assent were of a doubtful nature, it was the duty of hon'ble members to consider whether those principles were proper or not, and whether they could vote for them, and if they found that they could not do so, he did not think they could be justly charged with having caused the project to fall to the ground, because of their non-acceptance of those conditions. But it struck him that a compromise might be effected which would meet the views of those members of the Council who were opposed to this principle. Hon'ble members who were in the Council at the time of the passing of the Port Improvement Act, would remember that the Government of that time—that was to say, the Government of India—in view to guarding themselves against any possibility of loss, were very desirous of introducing a provision for the increase of the income of the Commissioners by imposing a due on all goods landed or shipped at the port, to such a sum as would provide against the possibility of any loss to the Government. Considerable opposition was made to that proposal, and at last a compromise was made by the introduction of a provision whereby the Government took power to force the Commissioners to place additional tolls on all goods entering or leaving the port, whether discharged or laden at the Commissioners' wharves or not, in the event of the annual income of the Commissioners proving insufficient to cover their liability. Very great opposition was made at the time to that proposition; but as it was felt by hon'ble members that there was a very great probability—almost a certainty—that the ordinary tolls charged on goods landed by the Commissioners would cover their liability, that proposition was accepted, looking to the fact that without such a provision no Port Commission would ever have been created. The result had been, that instead of the receipts from the landing of goods being insufficient, they had proved much greater than had been anticipated; and he might say that now there was no probability of the Commissioners incurring any loss, or of that provision coming into effect.

Why, then, should there not be made in this Act some similar provision? Why not let tolls be fixed on all goods and passengers using the bridge, with a provision that if the proceeds were not sufficient to cover the liability attaching to the bridge, a terminal tax should then, and in that case only, be put upon those goods leaving or entering the Howrah Station which did not use the bridge? Of course the principle would be equally obnoxious; but taking a sanguine view of the matter, he thought the provision would never be required at all, and it would enable the project to be carried out. He merely threw this out as a suggestion, which the commercial members might probably think it worth while to take into consideration. The proposition to make all goods liable to the charge was founded upon the idea that unless that be done, the proceeds from the bridge would not be sufficient to cover the liability. The Port Trust Commissioners had in their report somewhat fully entered into that question, and had shown good grounds for believing that in the manner they proposed that the funds should be obtained, it would be unnecessary to have recourse to such an obnoxious charge. He believed that that report had not been circulated to the Council, but he thought it was of great importance that it should

be circulated before they came to any decision upon the question; and he would therefore strongly urge that the consideration of this question should be postponed until hon'ble members had had time to study the proposals made by the Port Trust Commission. He should be sorry to have the matter finally decided now, because, after the views expressed by the commercial gentlemen, and the recommendations made by the Port Trust Commission, he felt himself bound to support the views of the commercial community against the imposition of the proposed charge.

His Honor the President said, before we conclude the discussion upon this clause, he should like to say a few words with reference to what had fallen from the commercial members of the Council. He should like to repeat in emphatic terms what he had stated to be the gist of the question, namely, that we should not get the money unless we gave some such guarantee as that proposed by the clause which he had the honor to lay before the Council, or another guarantee such as that suggested by the hon'ble member who had just spoken. He might mention to the Council, without any breach of confidence, that on the very day before the Viceroy left Calcutta, he had an interview with His Excellency in the capacity of the advocate of the interests of Bengal, and he had urged as strongly as he fairly could that a bridge of this kind must to a certain extent be a matter of speculation; that it was not possible to specify very accurately what the proceeds from it would be, but still there was reason to expect a good return from the ordinary tolls; and he submitted that it would very much facilitate our progress if the Government of India would consent to advance the money on that security. But he was sorry to state to the Council that His Excellency's opinion upon this point was so emphatic, that there was not the slightest hope of moving His Excellency or the Government of India in that matter; and therefore, His Honor repeated, whether the conclusion of the Government of India was right or wrong, it was a conclusion which we could not hope to shake, and unless we could give some collateral security for the re-payment of the capital, we should not have a bridge as now designed under present arrangements.

An hon'ble member had alluded to proposals for the construction of a bridge as an imperial undertaking. If we had induced the Government of India to take this view, it would perhaps have led to wider discussions; because after all this bridge was a Calcutta bridge, and one could not say that the people of Bombay or Madras were very much interested in it. In fact, now that he had done his best for Bengal, and since the question had passed his hands, he thought he might say that we might fairly be called upon to put our shoulders to the wheel and build the bridge as we could, either from funds supplied by local means, or in any other way which could possibly be suggested. At one time, no doubt, it was proposed by the Government of India that this bridge should be a free bridge. But he found, on looking into the correspondence, that the proposal was to make the bridge free to the inhabitants of Calcutta on the condition of this terminal charge upon the East Indian Railway Company. It was sanguinely hoped that this terminal charge would suffice to meet the expenses of the bridge; but it was well known that when we were in the hands of eminent engineers estimates were apt to swell, and it so happened that in this case the estimate had swollen, and it was then found necessary to tax the local traffic to a moderate extent. To that determination, he thought, no exception could be taken. The Government of India very long clung to their anxious wish that foot passengers should go free; but that also it was found necessary to abandon. But, at the same time, His Honor must express his opinion that the calculations of the Port Trust Commissioners in respect of the funds to be raised from foot passengers were over-sanguine. He would not, however, enter further into that question at present.

It seemed to him that the main question had been most fairly met by the hon'ble member on the right (Mr. Wordie), who said that if we could not have the bridge except on the terms proposed, we could not have it at all. That was the clear and distinct opinion of the hon'ble gentleman, who accepted the responsibility in that shape. It seemed to His Honor

that in reality the hon'ble gentleman did not differ from the views of the hon'ble member on the left (Mr. Schalch), who said that this objection was a reasonable objection, and therefore, if we reject the project upon this ground, we cannot be blamed for it. His Honor had not used the word "responsibility" in an offensive sense at all: all that he did say was, that in a certain sense they were the best judges of their own interests; it was free to them to reject the Bill if they chose, but then, he said, the responsibility of that decision rests with you as a matter of judgment, and not as a matter of misconduct; don't afterwards complain that you have not got the bridge.

Then another proposition had been thrown out by the hon'ble member on the left (Mr. Schalch): that was a proposition which seemed to His Honor to be one which we could very fairly consider. It was a proposition of the same kind as that which he had placed before the Council, that a tax should be levied upon all goods entering into or going out of the railway station at Howrah. The proposition which had been suggested was that a tax should be levied upon all goods entering into or going out of the port of Calcutta—

[Mr. Schalch explained that what he suggested was that the capital charge should be made upon those using the bridge, and that in case the proceeds from such charge should not be sufficient, the deficiency should be met by a tax on all goods coming into or going from the Howrah station.]

His Honor proceeded—He thought that would come to very much the same thing as his own proposition, as eventually the charge would be levied on all such goods, and he was perfectly ready to accept it as far as he was concerned.

Then, with reference to the observations made by the hon'ble member on the right (Mr. Wordie), His Honor was free to admit that though with the rejection of this Bill the construction of a bridge on the present plan would fall to the ground, it did not necessarily follow that we should never have any bridge at all. All that he did submit was, that the present project would fall through, and that at all events we could not have a bridge immediately.

His Honor would also say, with reference to the remarks that fell from the other hon'ble member on the right (Mr. Robinson), that he believed it was a condition insisted upon by the Company who projected this bridge—and that condition would be likely to be insisted upon by other Companies—that very much heavier tolls should be charged on goods crossing the bridge than those now proposed to be levied—

[Mr. Robinson explained that the proposition made was that the Company would accept such tolls as the Government would allow them to charge.]

His Honor continued—It would rest with the Company, if they thought it would be advantageous to them, to take the tolls at the amount proposed by the Government; and if the Council thought that there were any great advantages in making a bridge by means of a Company (His Honor was inclined to think that there were great disadvantages), that might be an element in their minds in deciding against the present proposal. But he thought that any Company that could be got up, would insist on levying heavier tolls than those which it was now proposed to levy.

His Honor would then submit to the Council that they should permit this section, which he had proposed as section 3, to be printed, and that its consideration should be postponed for a fortnight, during which time the report of the Port Trust Commissioners would also be circulated.

The consideration of the proposed section was then postponed.

The consideration of section 3 was postponed.

A verbal amendment was made in section 4.

Sections 5 and 6 were agreed to.

The consideration of section 7 was postponed.

Section 8 was agreed to.

A verbal amendment was made in section 9.

The consideration of sections 10 and 11 was postponed.

On the motion of MR. COWIE, section 12 was omitted.

Sections 13, 14, 15, and 16, were agreed to with verbal amendments.

The consideration of section 17 was postponed.

Verbal amendments were made in section 18.

Sections 19, 20, and 21, were agreed to.

The consideration of section 22 was postponed.

Section 23 was agreed to.

The consideration of section 24 was postponed.

Sections 25 to 31 were agreed to.

HIS HONOR THE PRESIDENT said he wished to understand whether, before the Bill was submitted for the consideration of the public, hon'ble members thought it desirable to propose any alterations in the schedule, subject of course to further consideration.

MR. WORDIE said the difficulty was in regard to knowing on what data the tolls or rates were to be charged. The scale of tolls would, he thought, depend greatly upon the consideration as to what goods were to be liable to the charge; and that was a consideration which affected the proposed section 3, the consideration of which had been postponed. There were two different bases on which the charges might be made. He thought, therefore, that the consideration of the schedule should be postponed.

HIS HONOR THE PRESIDENT said, the arrangements originally proposed by the Government of India were made on the supposition that the bridge could be constructed for £150,000, and on that supposition they were satisfied that the tolls proposed to be levied would be sufficient. But the estimates had since increased to £182,000. It was suggested to the Government whether, under the modified estimates, the arrangements proposed would sufficiently secure the money to be advanced; and there was an additional difficulty in that respect. He quite agreed that one state of things depended upon the other; and it was therefore that he threw out for the consideration of the Council that if they thought that these local rates could or ought to be properly raised, we should be in a better position to deal with the scheme, and the public would be in a better position to consider the matter. It appeared to him that before we had done with the consideration of the Bill to-day, it would be very desirable to settle the rates which hon'ble members thought it fair to charge for goods and passengers crossing the bridge, without any reference to the railway traffic. But if it was the opinion of the Council that the consideration of the schedule should be postponed, he would offer no objection to that course.

The consideration of the schedule, and the further consideration of the Bill, were then postponed.

HIS HONOR THE PRESIDENT said, that before adjourning the Council, he would state that he had that morning received a letter from the Hon'ble Mr. Cowie, announcing his resignation of his seat in this Council. The Council were probably aware that this calamity had been looming in the distance; that it was, in fact, inevitable in consequence of the departure from this country of the hon'ble gentleman who had been the stay and backbone of this Council for many years. HIS HONOR had alluded on a late occasion to the loss of a gentleman eminent in the administrative service of the Crown, who had been a member of this Council. He should say that if our regret on that occasion could be exceeded, it was on this occasion, on which we were to lose a member who was not only an important member of society and of the Government, but who was also a gentleman who had been the very backbone of this Council for a very long time, if not quite from its foundation up to the present time. How we should get on when we lost the services of the Hon'ble Mr. Cowie, time alone could determine. He was quite sure we should not be able to get on so well as we had gone on hitherto. We should have immense difficulty in obtaining such assistance as he had so constantly given us. We must trust that the other eminent gentleman who would

shortly take his seat in this Council would do what he could for us; but His Honor believed that there was hardly any gentleman who by experience, by energy, and by the will to assist, was so qualified as the hon'ble gentleman we were about to lose; and he was quite sure, and he believed he was expressing the sentiments of every hon'ble member present, that it was with the most extreme regret that we should lose him from this Council.

The Council was adjourned to Saturday, the 29th instant.

Saturday, the 29th April 1871.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *presiding.*

J. GRAHAM, ESQ., *Advocate-General,*
A. R. THOMPSON, ESQ.,
S. C. BAYLEY, ESQ.,
V. H. SCHALCH, ESQ.,
MOULVIE ABDOOL LUTEEF KHAN BAHADOOR,
T. M. ROBINSON, ESQ.,
F. F. WYMAN, ESQ.,
T. H. WORDIE, ESQ.,
AND
BABOO DIGUMBER MITTER.

MR. GRAHAM took the oath of allegiance, and the oath that he would faithfully fulfil the duties of his office.

REGULATION OF MARKETS IN CALCUTTA

MR. SCHALCH said that since the last meeting of the Council, a letter from the Chairman of the Justices, and a memorandum from the Health Officer, had been received, pointing out the evils which existed owing to there being no sufficient check to ensure the meat exposed in the market having been slaughtered at a place where proper supervision could be exercised over the condition of the living animals. He thought that any one reading those papers could not but admit that that was a great evil, and under that impression it had been his intention to move certain amendments in accordance with the suggestions of the Health Officer. But it had since struck him (Mr. Schalch) that the whole subject would be much better discussed in connection with the proposed amendment of the existing Slaughter-House Act, and that it would be better that the Justices should come forward and suggest the amendments which they would wish to be made in that Act. Under these circumstances he proposed to withdraw the amendments which it was his intention to have moved, and he would now simply move that the Bill be passed.

The motion was agreed to.

HOOGHLY BRIDGE

MR. SCHALCH moved that the report of the select committee on the Bill for the construction of a bridge across the river Hooghly, between Howrah and Calcutta, be further considered in order to the settlement of the clauses of the Bill.

The motion was agreed to.

The postponed section III having been read—

HIS HONOR THE PRESIDENT said, that inasmuch as this was a vital section of the Bill, he would wish to say a few words before the Council proceeded to the consideration of the question whether the section do or do not stand as part of the Bill. The Council were probably aware that since the last meeting a perfect shower of objections to this section had been received, in the shape of letters and protests, from various public bodies and individuals connected with the town of Calcutta. The impression left upon his mind

by these communications, and the articles in the public prints, was this, that there was undoubtedly, on the part of the community of Calcutta, a very strong wish to have a bridge, but at the same time there appeared to be an extreme disinclination to pay for it. Well, he might say that these views were somewhat incompatible. He would also remark, with regard to the objections taken, that some of the gentlemen who had communicated their objections to this Council had assumed very large functions as representatives of the inhabitants of Calcutta and Bengal, and in fact had assumed to represent all classes of the people. He was not altogether convinced that that assumption was wholly correct. He was not aware that the Chairman of the Justices, when he addressed the Council, had really consulted the feelings of the inhabitants of Calcutta. He was not aware even that the body of the justices had been consulted. He was not aware that the members of the British Indian Association had taken steps to ascertain the views of the whole of the people. Rather, on the contrary, the impression which now influenced his mind was that the greater part of the inhabitants of Calcutta, and most of the classes whose views these communications were supposed to represent, really knew nothing about the matter beyond what they had read in the newspapers, and they had scarcely had the opportunity of forming an opinion upon the subject. Still, he was quite ready to admit that the communications which had been made to us, coming from the parties from whom they did come, deserved most respectful consideration. At the same time, numerous and weighty as they were, he was not, under the circumstances, prepared to withdraw this clause in deference to those representations. He would repeat what he said upon a former occasion—that if this clause were rejected and the Bill fell to the ground, the responsibility must rest with the members of this Council, who, after having now had the opportunity of considering the matter, might determine to vote against this section. He would say again, as he had said before, that he did not use the word "responsibility" in an invidious sense. He did not take upon himself to blame those members of the Council who, in the exercise of their judgment and functions, thought it right that this clause should be rejected. If they did think so, he did say that the responsibility would rest upon them as a matter of discretion and judgment. If they were prepared to say that they thought this clause ought to be rejected, and if we were in consequence compelled to say that we could go no further with this Bill—which was, of course, a step inevitably necessary if this clause was rejected—why, no doubt, they would have done it.

It seemed to him, when he came to the contents of the communications which were received, that a large proportion of the objections which had been urged were what he might call in some respects sentimental; that was to say, it was said that the provisions contained in this clause were in theory objectionable, rather than that they would bear very hardly upon the inhabitants of Calcutta.

Another class of objections which had been urged was this, that it was most desirable to get the money out of the Government of India; that, in fact, the Government of India should make the bridge, and not the inhabitants of Calcutta.

A third class of objections, which was very predominant in the communications before the Council, and which was still more predominant in the public prints, was this, that as a commercial enterprise a company could be found ready and willing to undertake the project, and that it would be much more desirable to entrust the undertaking to a company.

Now, in reference to the first objection, he would not detain the Council long—he meant the view of what he had called a sentimental and theoretical objection. He would only urge upon the Council that there were a great many matters in respect to which we could not expect that a thorough and abstract justice could be fully and exactly fulfilled: and in his view, the members of the Council should rather consider the convenience to the inhabitants of Calcutta and Howrah that would result from the construction of a bridge on the terms proposed in this Bill, as compared to the inconvenience of paying this terminal charge, or whether they should suffer greater inconvenience without a bridge.

Then, as respects the view that the bridge should be constructed by the Government of India from imperial funds, he would like to express his opinion in a most emphatic way. It had been asserted—His Honor was really unable to discover on what foundation—that it was at one time proposed by the Government of India that this bridge should be constructed as an imperial work from imperial funds. He had been quite unable to discover that that was the case. He was quite aware that the Government of India did object on public grounds to the construction of a bridge by a private company; but on the question whether the funds should be found from imperial or local sources, he believed the Government of India had never expressed any such opinion as had been imputed to them. And then, with regard to the sources from which these funds were to come, it was well known that the Government of Bengal was possessed of no resources whatever, and it was impossible that we could ever build such a bridge from the resources of these provinces, except by pledging the future income of these provinces in a way which it was absolutely out of our power to do. Therefore, it came to the question either to construct the bridge from imperial funds, at the risk of the Government of India, or from local funds, at the risk of the inhabitants of Calcutta and Howrah. Upon that subject he wished to say that this project was in some sense no child of his own. He had assumed the office which he held after the project had taken shape, and therefore he might be considered in some sort an impartial judge of the matter; and he wished to give the Council his personal opinion—whatever it might be worth—to this effect, that he considered the imputations which had been cast upon the motives and policy of the Government of India quite unreasonable and unjustifiable.

He had told the Council that he did what he could in the interests of Calcutta to induce the Government of India to take the matter up as a speculation, and to build the bridge on the faith of the receipts which they might expect to derive from it. But since that representation had failed, he would say again that he altogether respected the position taken by the Government of India, and by the Viceroy in person, in this matter. He was very much convinced with the Viceroy that the Government of India could not afford to bear all the burdens and charges which it had been sought to impose on it from many quarters; that there were matters which must be dealt with locally; that there were matters in respect of which the people must assist themselves. And he was prepared to say that he did yield to the argument and views of the Government of India, and he did think that this bridge was a local bridge and a local work, and that it was perfectly fair and reasonable that the Government of India should say—"If you wish to have this work, you must bear the burden. We are willing to lend you the money, but you must secure us from risk; you must secure the interest of the money." That was the view taken by the Viceroy and his advisers, and he must say that it was a justifiable view which was not likely to be shaken, and which he could not himself urge on the Government of India that it was desirable that they should abandon.

Finally, with regard to the objection which had been taken with reference to the construction of this bridge by a company, he must say that his own opinion was very decidedly against entrusting a great central work in the port of Calcutta to any company whatever. He was very far from undervaluing the merits of private enterprise: he well knew what had been done by private enterprise, especially in England; but he was far from having any such confidence in joint-stock companies as at present constituted under the English law. He was quite willing to admit that they had done great things in England, but he did not think that that had been our common experience in India. They were extremely popular in the stage of promotion; but when they had passed that stage, in the greater proportion of companies in this country it had generally happened that differences and squabbles had been the only result. Either these companies had failed to perform their functions, or the result had been that they had beset and abused the Government till they were induced to buy the project out of the hands of the company. More especially was this likely to be the case as respects a great

means of communication across a great public river. He would submit to the Council that even in England, where companies were carried on under much more advantageous circumstances, the result had been public inconvenience; and we knew that at the present moment measures were being taken to buy back the bridges over the Thames and other works of that kind from the companies who had constructed them. The bridge which was now proposed to be constructed was to be built in the very centre of the port of Calcutta, and it would be necessary to make arrangements to enable the shipping to pass through the bridge. Various questions would occur in connection with the times and mode of opening and affording facilities to the shipping, and other matters; and he did believe that we should be infinitely embarrassed if we entrusted the making of the bridge to a private company under any conditions whatsoever. The probability was that we should be under the obligation to buy back the bridge at a very extravagant rate, as had been the case in regard to several companies which Government were compelled to buy up in Bengal and Bombay and other parts of the country.

He believed that in these observations he had touched upon most of the views which had been put forth by the several bodies who had addressed communications to the Council; and perhaps he need not trouble the Council further by going into particulars with regard to those communications. He would only notice one passage from that of the British Indian Association. Now, the British Indian Association, in that lofty spirit which distinguished them, expressed a strong hope that no paltry considerations of finance should be allowed to interfere with the construction of this bridge. He must call the attention of the Council to the fact that "paltry considerations of finance" were very important matters in questions of this kind: he was not aware that the British Indian Association had been distinguished by an entire disregard for financial considerations. He was inclined to think that like most people they would consider such considerations of great importance when they had to pay; but when somebody else had to pay, they did not seem to attach so much importance to such considerations.

Well, then, if he was right in assuming that this matter must be treated as a local matter, and that the Government of India would only give the money on the condition that they should be secured against any risk that might arise, why then the present proposal amounted to this, that the Railway Company undertook to secure them by putting a small terminal charge on all goods passing through their station at Howrah. It was a charge in reality on the merchants and inhabitants of Calcutta and Howrah which would be very lightly felt. He was himself quite convinced that he had taken the right course in bringing this matter boldly and clearly before the Council. It would have been extremely undesirable that this provision should have been smuggled through without the full knowledge and consideration of the Council. But now that it had been proposed, he thought they ought to consider whether the burden proposed to be imposed would not fall in an almost infinitesimal degree upon them, and whether it would not be very cheap in the end for them to get a bridge upon these terms. If the project for arranging that the Railway Company should guarantee the security for the money should fail, then it seemed to him—a company being in his opinion impossible—the only question would be whether the Municipality or Port Trust were prepared to furnish this guarantee from the funds in their hands and from the rates and taxes of the town, or the income derived from the Port Trust property and funds. His impression was that if either of these bodies should take this burden upon themselves, they would be extremely sorry if they should have to make good the very large sum required, instead of getting it in a very easy way under the arrangement now before the Council. If such an arrangement should ever take place—he had no idea that it was at all likely to take place within a moderate period of time—then it would inevitably happen that the tolls must be fixed at a very much higher rate than that now proposed to be fixed by this Bill. He said again, if the inhabitants of Calcutta, having through their representatives rejected this clause, found that they did not get a bridge for a long time to come, and had to pay tolls infinitely heavier than those now proposed,

if they ever did get one, they would very much regret that the present arrangement was rejected and thrown aside. He believed that all classes of the community, when they came to think over it, would find that they had sacrificed a great deal to these theoretical and sentimental objections. It seemed to him that the matter was one eminently for the consideration of the independent members of the Council. All he could tell them now was that if this clause was not passed, it would be impossible that he should proceed with this Bill, and we must at once postpone its consideration.

With these observations he would await the expression of the opinions of the members, and he wished to know if any hon'ble member would think fit to make any motion with reference to this section.

MR. ROBINSON said that in the interval that had elapsed since the Bill was last before the Council, he had not only given the subject of this clause every consideration, but he had also been at great pains to ascertain the opinions of almost every gentleman with whom he was acquainted in Calcutta in any way connected with the trade of the port; and he would say that without a single dissentient he had found every one agree with him that this proposal of collecting a terminal charge was inequitable and unnecessary. And he was not only strengthened in his own view from that circumstance, but much more so by the consideration that he was perfectly certain that if this clause were to be passed with this tax upon the trade of Calcutta, infinitesimal as it was, there would be a far stronger opposition to it—an opposition far more powerfully urged by the people in England, who were interested in the trade of this port, than it was in the power of parties resident here to put in force. Commercial men were so jealous of anything which appeared to be an unjust or unnecessary charge on trade, that he was quite certain that that would be the result of the imposition of this charge. It would fall largely on two great interests—the interests of the cotton trade, consisting of cotton when exported from Calcutta, and upon piece goods, when imported here. Next, it would fall also heavily on a large and yearly increasing article of export, namely oil-seeds; and he was quite certain that the influential parties interested in these extensive trades would object to the imposition of this charge far more strongly than had been done by anybody here. One great difficulty which he felt in dealing with this question was that he had really heard no argument whatever in favor of this specific form of charge. Nothing had been said in support of it to which any reply could be given, as was usual in debate. All he had heard was that it had been decided that if this charge was not sanctioned by the Council, the bridge would not be built; and that, he must take leave to say, was not a fair or reasonable issue to place before the Council. Surely, if this charge was absolutely necessary to the financial success of the bridge, there must be something capable of being said to prove that it was so. That, he contended, had never been done, and he maintained that the charge was perfectly unnecessary. He saw no reason why the bridge should not be made to pay by means of rates and charges upon goods carried across the bridge in proportion to their value. That was the usual form of charge which had always been made in such cases, and had always been found to succeed in the case of any well-planned enterprise; and he had heard no reason given why such a charge should not answer all the purposes required in the present case. No one could have the slightest wish that, if the Government constructed this bridge, they should not have the most ample security for the funds they invested in it. The only question was, how that security was to be given. The Government had asked for it in a manner that had been universally objected to, and had supported their demand by no argument whatever. And the way in which the question was put before the Council had entirely precluded the parties engaged in the trade of the port from having their suggestions fully considered, because the Bill was put before the Council, not as a matter to be fairly debated on, but almost in the form of a decree to be registered.

For his own part, in going into this matter as a commercial speculation, he would enlarge upon what he had said before so much as to say that, as a commercial speculation, he

would not have had anything to do with the building of this bridge if its success had been dependent upon any such unusual form of charging for its use as that proposed in this Bill. If it had not been from a conviction on his part, and on the part of all who intended to take a part in the construction of this bridge, that its construction would entirely alter the whole condition of communication between Calcutta and Howrah, we should never have thought of entering into the enterprise at all. The main difficulty in the way of business in Calcutta was now the absolute want of space. House rents, office rents, godown rents, were enormously high, and space for conducting business was not to be got, and the whole of these difficulties could be removed by such a communication with the other side of the river as would make it no more trouble and waste of time to cross over than it was now to drive from the Armenian Ghât to the Mint. There was one article alone the business in which was being driven from pillar to post to find where to lodge—one of the largest articles of export of this town—jute. It was now almost impossible to find space to carry on the jute trade, and it absolutely blocked up the thoroughfares in the business part of the town. And there was no doubt whatever that if a bridge were constructed, and if facile communication with the other side were once established, the trade in jute would be carried on, as well as many other trades, on the other side of the river, relieving this side from great difficulties as to space, and a great deal of serious inconvenience by the obstruction of roads in the business part of the town. It would, in point of fact, be adding so much area to the business part of the town. If he was in the least right that any change of the kind would take place—and he would say that it was almost impossible to suppose that it would not lead to different conditions of carrying on the business of the port—which would make the bridge pay, it did seem to him a most unsound principle to cast these considerations aside, and to say that we will look at nothing but what we see on paper as the actual state of the communication across the river and the traffic on the East Indian Railway existing at the present moment. If that were all that could be looked to to give a revenue from a bridge, he would say that the bridge should not be made at all. Really, it seemed a most wonderful thing, the extraordinary difficulty that there had been in getting a bridge over this river. The *pons asinorum* of our school days was nothing compared to it. He was a member of the committee appointed in 1855 in Lord Dalhousie's time, and he had been looking over some of the papers connected with that committee's proceedings, and had discovered copy of a letter from the British Indian Association, who had gone fully into this matter, from which it appeared that the first project for making a floating bridge over the Hooghly was dated as far back as 1838. The Association said:—

"The want of safe and ready means of transit between Calcutta and the opposite bank (ranging between Sulkeah and Silpore) has very long been a standing public grievance, causing, amongst other evils, periodical loss of life to a fearful extent. This want has for many years past engaged the attention of private speculators and of public-spirited persons, and it may be in the recollection of some of the members of the bridge committee, as well as of many of the public authorities, that in the year 1838 a project for a floating bridge was started but failed. Soon afterwards a suspension bridge was proposed, and Baboos Dwarka Nath Tagore, Joykissen Mookerjee, and others, volunteered liberal contributions towards that object. The previous failure, however, had thrown a damp over the question of bridging the Hooghly; the attention and interest of many of the projectors became gradually withdrawn, and with the exception of the small and ill-provided steam ferries which have plied during the last three years (the proprietors of which were, it is believed, successively losers, until the opening of the railway), the communication between the banks of the Hooghly, although an absolute want and necessary of daily life to vast numbers of people, has been left to the chance provision of poor native boatmen, without progress or improvement of any sort, instead of advancing with, and becoming adapted to, the social and commercial advancement of the Empire, and especially of Calcutta."

That was written in 1855. With how much greater force might that be said now, in 1871; and it seemed to him a most marvellous and lamentable thing that in the period of twenty-three years it should have been found absolutely impossible to get a bridge over the river, flowing through what had become one of the largest trading cities in the world, and

apparently it was likely to remain as difficult as ever. But, as he had said before, and he would say again, he did not think the issue put before the Council was a fair one, owing to the way that this charge was insisted upon without any alternative whatever. His Honor had, in proposing clause III, with much care tempered his remarks; but temper it as he might, there was no denying the simple fact that it was accompanied with what was in reality a threat, that if we voted against, and threw out this particular clause, we should be held up to public opprobrium as obstructors of a great and useful public improvement. It was difficult for him to say what he should call this mode of supporting a question: it certainly was not argument. It was something he would rather avoid giving expression to, for fear he should say too much; but he accepted the position fully, because he felt that upon himself and every member of this Council who objected to this clause, supported as they were by the community at large, it could have no effect whatever. The public were with us universally. It would remain with those who had really and actually retarded the construction of this bridge, should it be retarded by adherence to the particular views of their own in opposition to such a large mass of opinion on the other side, to bear whatever of opprobrium there might be to be borne.

He would conclude by moving the omission of clause III from the Bill.

Mr. Wyman said, in rising to support the amendment of the hon'ble member (Mr. Robinson) he might mention that he had been requested to lay before the Council a memorial from the Trades Association, which had been already circulated to hon'ble members. The Trades Association represented a large and important class of the community, and he was sure that their prayer would receive the respectful attention of the Council. There was perhaps no body, no class in Calcutta, more constantly and directly interested in the construction of a bridge across the river than the Trades Association of Calcutta, and when they deliberately expressed their opinion, that it would be preferable to abandon the idea of constructing this bridge, rather than that the objectionable charge referred to—a terminal toll—should be introduced in the Bill, he thought it showed how very strong was the feeling amongst that body in its opposition to this clause. Not only, however, was this opinion felt by the Trades Association, but within the last few days it had been strongly and publicly expressed by other public bodies. He would say that he fully concurred in the remarks and opinions expressed by hon'ble members opposite at a previous meeting of this Council, from which he was unfortunately absent, and he felt that he also would rather see the Bill abandoned than that this clause should be inserted. But it seemed to him that the withdrawal of this clause would not necessarily necessitate the withdrawal of this Bill. The Government of India proceeded on the assumption that unless they lent the money it was utterly impossible to construct a bridge. Now, he for one respectfully differed from that opinion. Projects before now had been put before the public and the Government to remedy this crying evil which had existed for so many years, namely, the want of a bridge across the Hooghly. It might be that those projects were not sufficiently matured to justify the Government in accepting them. It might be that, as His Honor the President had stated, there did not exist in a public company sufficient security for the proper carrying out of such an important work as this. But he thought it would be wrong to conclude from that, that because the Government would not lend the money, therefore the bridge could not be built. It seemed to him, further, that we should perhaps be able to induce the Government of India to alter the opinion they had expressed. His Honor had said that the Government of India were not to be moved from the position they had taken up, and of course we must accept that statement, so far, as conclusive. But it occurred to him that the objection of the Government of India was founded on a strong belief that unless they levied this toll they would not receive anything like a sufficient security for the loan of their money. Now, if it could be shown that it was possible to have such a large margin of receipts over expenditure as would provide a sufficient reserve fund; if it could be shewn that the probable income from the bridge had been under-estimated—that very probably the traffic would so increase as to produce a revenue far in excess of the

expenditure—it was possible that the Government might be induced to reconsider their decision. And if it could be shown conclusively that there *was* sufficient security, both direct and collateral, for the repayment of the money to justify the Government in lending it, it might be fairly assumed that they would not, or at any rate ought not, to stand in the way of the construction of the bridge, which, although it was, as His Honor had stated, of special local importance, was certainly indirectly of very large imperial importance.

The estimate of the income from the bridge was taken on a fixed quantity of traffic, which he was not prepared either to support or to disprove, as he had not gone into the matter; but he assumed that the Port Trust Commissioners had gone carefully into the matter, and that their figures might be taken fairly to represent the probable amount of *certain* traffic which would cross the bridge. But he would beg to point out that although he fully concurred in the rate proposed to be levied on foot-passengers, of three pie per head—as it was undoubtedly essential that this rate should be as low as possible—yet the charge proposed to be levied for goods was ridiculously low. It stood to reason and to common sense that the owners and consignees of goods would be only too happy to pay a like amount as toll for crossing the bridge (which would ensure absolute security to their goods) to what it now costs them for the very unsatisfactory, dilatory, and insecure method of transit by country boats. He had been at some trouble to ascertain what the cost of crossing goods was to the trade of Calcutta, and he would mention only one instance as showing that, in fixing the rate at two pies per maund, sufficient regard had not been paid to the fairly remunerative nature of the traffic which would cross the river; and although the heavy traffic was perhaps not very large in amount, the instance which he would give showed that there were certain classes of goods which would bear a higher rate of toll without any injury to the persons concerned than that which it was proposed to charge upon them. The charges for six tons of manufactured iron crossed over in country boats, he found, aggregated Rs. 5-2; and the same, carried over on a different occasion in the railway ferry steamer, cost the much larger sum of Rs. 22-8. The reasons which probably induced exporters to pay this very large difference of cost was the feeling of insecurity which always must exist in employing country boats. But taking the minimum cost, we had a charge of, say, one anna per maund, or six times as much as the bridge charge would be: that included the cost of crane hire on this side and the cost of crane hire and carriage on the other side also, which formed part of the cost of carrying goods across the river by the present method. Now, the persons concerned in the transit of these goods would undoubtedly be only too willing to pay a like charge for bridge transit to what they had to pay in sending their goods over in rotten country boats, with all the risks of loss, injury, damage, and delay. Therefore, bearing in mind that there was a very large traffic in a class of goods which was not apparently provided for in the schedule of the Bill, and which would easily bear a much higher rate of charge than two pies per maund, he would say that the estimate of income from the bridge in respect of goods traffic was so greatly under-rated as to deceive the Government of India as to the probable returns, and cause them to say—"With this probable return we do not think that we can safely lend money to such an amount without a collateral security." But if it could be shown that the margin of receipts over expenditure was not likely, as estimated, to be under a quarter of a lakh, but was more likely to be one or two lakhs, it was probable that the Government of India would be inclined to alter its opinion, and say—"If you can tangibly show us that there is a fair security for our loan, you shall have the money." The rate of two pies per maund for the lighter class of goods also was less than these goods could be carried over for at present in the most economical manner, viz by country boats, apart from the necessity which really existed of carrying valuable goods by ferry at an enhanced rate of more than a hundred per cent. He would say, therefore, that the estimate of receipts from the goods' traffic across the bridge was so grossly under-estimated as to justify the Government of India on these figures in taking up the position that they had. He felt convinced that a general increase of the

goods' rate, and a sliding scale of charges for different classes of goods, would meet the difficulty as to the necessary excess which should be provided of income over expenditure. It seemed, for instance, most unreasonable that the same rate should be charged for a portable steam engine as for a gentleman's carriage, and he felt certain that the public would willingly pay an increased price for the very considerable advantage which they would enjoy from the construction of the bridge.

Then, in addition to the fact of this sufficient, direct, and collateral security that might easily be afforded to the Government of India, there were alternative measures which had for many years been before the public. He would say that in a matter which had been termed of local importance, local influences should be allowed to take a prominent place, and that we should not be always in leading strings to the Government of India. His Honor had stated that he did not consider a public company a fit agency for the construction of a bridge, and there was probably a great deal of force in the remark. We had not had much reason to place faith in public companies; but nevertheless it would undoubtedly be possible, in reference to this project, to get up such a company as would secure the confidence of the Government. At any rate we had another alternative proposal, to construct the bridge by means of the Corporation of Calcutta, who would not be an unfit body to undertake that work. As to the proposal to raise the money at 7 or 8 per cent., he considered this was absurdly excessive, and he believed that money could be got at a very much lower rate.

There was another point bearing upon the subject, and that was as to the cost of the bridge itself. Of course, the amount that the bridge might cost would affect directly the margin which might be expected to arise of receipts over expenditure, and therefore the security of the Government of India: but on looking at the tables appended to the report of the Port Trust Commissioners on this bridge question, he found a most startling discrepancy in the estimates for the cost of construction—a discrepancy which he was utterly at a loss to account for,—even on the assumption that one man's brains and work might be far superior to those of another. He presumed that the gentlemen and the firms who were asked to estimate were competent persons, who had the confidence of those who had solicited them to send in their returns, and he must therefore assume that either would be fully competent to execute the work if it were entrusted to them. Yet he found a difference of 75 per cent. between the minimum and maximum proposed cost for merely the iron work of the bridge. Now, without assuming that the high estimates were unfair, he must say that if proper persons had been applied to to send in their estimates, and if we felt satisfied that the construction of the bridge could be entrusted to those persons, we had no right to take the maximum cost of £50 per ton when we could have the work done for £23 or £28; and that of itself would so considerably reduce the expenditure, as to leave a large margin yearly of receipts over outlay in respect of a large diminution of the estimated amount of interest payable; and this alone might probably induce the Government to say—"If you can show us a large margin, we can let you have the money on the security of the tolls alone." Therefore, he said, if the bridge were constructed at a minimum cost, and if the rates on goods' traffic across the bridge were increased to the amounts which they would fairly bear, we should have such a large margin that the Government of India could not, in fairness to the interests of this great city, stand by and prevent such a necessary work being carried out.

Besides, there was another reason. We had not to deal only with the existing traffic. We knew that facilities for traffic created traffic. We had only to look at the East Indian Railway to see what a wonderful increase of traffic had taken place in consequence of the facilities of communication created by that work, and that too amongst a class whose prejudices had been greatly against this mode of travelling. No one in his senses would ever have undertaken the construction of that line of railway had he depended upon the then existing traffic. But the great minds who decided on the construction of that magnificent highway,

the East Indian Railway, felt that there must come the time when this vast expenditure would reap a sufficient return, and their predictions and anticipations had now been crowned with success. And it was only fair to assume also that by the construction of this bridge the traffic across the river would so largely increase, that you could no more estimate the income of the bridge from the present returns, than you could have estimated the probable returns of the railway before its construction. Although perhaps there was an element of uncertainty about the thing, still there were certain uncertainties which, guarded by the experience of the past, became absolute certainties; and one of these things was, that so surely as you afforded greater facilities for traffic, so surely would traffic increase tenfold. He thought that if this bridge was not built, it would be a public calamity, and one which succeeding generations as well as the present would deeply deplore. It was a matter of the most profound regret to the public at large that for twenty years this bridge should have been practically lost sight of; that so many tangible projects should have been allowed to fall through; that the Government of India should have maintained an obstinate adherence to their own views; that they should have kept us, finally, in suspense for ten years, and afterwards say—"You may build the bridge, but you must comply with this impossible condition." In a question of this kind, he thought that the Council had a right to stand up for a principle which was something more than sentimental; and although the practical effect of the proposed charge would not work serious injury to anybody, still, if it could be shown that that charge was not necessary, we should not permit a principle to be imported into this Bill which we and the public have the strongest possible objection to, because we deem it impolitic and unjust. He believed that if the amendment which he had the honor to second was carried, it need not result in the throwing out of the present Bill; and he earnestly hoped that it would be permitted to this Council to go up to the Government of India with some alternative project which might convince them that a sufficient security was provided for their money, so that this Council might have the honor of having at last constructed a bridge connecting the capital of India with the great highway of Bengal and the Upper Provinces.

Mr. Wordie said that at the last meeting of the Council he had expressed his views in regard to this bridge, and everything which had since come to his knowledge had tended to confirm the impressions he then held. Indeed, public opinion, so far as it could be learnt in this city, had unanimously declared against the principle which he opposed, and in such a case the weight of the responsibility, or whatever it might be, that attached to the opponents of this section, rested very lightly upon his mind.

There was only one point to which he wished now to refer. He desired to know whether the Government of India positively insisted on the repayment of the principal sum advanced for the construction of the bridge within the time specified in the present Bill. He thought that if the Government of India would be content with only the interest of the money lent, and a sinking fund to provide against contingencies, something might be done to carry out this project in another form; but if for thirty years the bridge should have to pay from revenue a large sum for repayment of the principal, it appeared to him that there was a weight attached to this matter which applied to the construction of no other public work in the country. He should vote for the amendment; but unless the question of the repayment of the principal had been definitely disposed of, it might be well to delay pressing the matter further, in order to see whether some alternative project could not be devised.

Baboo Digumber Mitter said, the question before the Council was pretty nearly exhausted, and he had but very little to say upon it. He however regarded the proposed bridge more as a national than a local undertaking, and holding that view, he failed to perceive that there was any great sacrifice of principle involved in the section under comment. It was not Howrah and Calcutta alone that would be benefited by the work, but the whole country, and as such, the whole country ought to contribute towards its construction and maintenance. And what could be a better mode of levying that contribution than by imposing a light fee on

goods produced or consumed in the country, even if a portion of them did not pass over the bridge? But at the same time he must respectfully submit that, while tendering to the imperial Government such a certain and prolific source as collateral security for the repayment of any advance which it might make towards the undertaking, the least return the legislature could make to the public was to exempt the passengers from all tolls. With this condition he gave his adhesion to the section under discussion.

THE ADVOCATE-GENERAL said that, as a new member, he approached this subject with diffidence, as he had not had the same time as other members to consider this question carefully, and he had therefore felt himself under some difficulty in voting on the motion before the Council. In considering the subject since the publication of the proceedings of the last meeting of the Council, he had been of several minds as to the justice and injustice of this clause; but on the whole, after the fullest consideration he had been able to give to the subject, he could not altogether admit the force of the arguments of those who said there was great and extreme injustice in the course proposed. The whole position of this matter seemed to be reduced to the one consideration as to the justice or otherwise of the imposition of this terminal charge. The necessity for the construction of a bridge was admitted on all hands, and also, that it should be made as soon as possible; and of all the projects for the erection of a bridge across the river, the one now under consideration seemed the only feasible one—the only one that had been matured, and which was in a position to be carried out. The only objection which had been urged to this project was the objection to which he had just referred, and which he could not agree with His Honor the President in considering as a sentimental objection; it was one he was disposed to treat with the utmost respect. But he did not think that the passing of this measure involved grave injustice to any one.

The hon'ble member opposite who spoke on this subject (Mr. Wyman) had indeed said that if this measure were passed it would lead to no serious injury to any one. He (the Advocate-General) thought that on that supposition the present opportunity of passing a most useful and necessary measure, not likely to inflict any serious injury on any one, should not be lost. Other hon'ble members thought there would be some injury. It was a matter of degree. As His Honor the President had said, in carrying out a great public work some small injury must be done to some persons or classes. It might be unfair for some persons to have to pay for a work which they did not use; but he (the Advocate-General) did not think that that would be such a great injustice under the present circumstances as to induce him to vote against this Bill. On the contrary, he thought that the paramount advantages of carrying out the only feasible scheme for the construction at last after so many years of a bridge was so great, and of such enormous importance to the public, that he did not think that a small objection of this sort should be allowed to obstruct the benefits to be derived from the work. He called the objection small, because it led to small injury to some persons; but it was not an objection that seemed to him to be of that character that ought to prevent the passing of this measure. And therefore, although he gave his opinion with great diffidence against the views of the mercantile community and other classes, it seemed to him that the balance of the whole argument led to the conclusion that the measure proposed was a great good, that it could only be carried out in the way proposed, and that the objections that had been urged against it were not of that grave character which ought to outweigh the advantages to be derived from the construction of the bridge.

Something had been said as to the terms imposed by the Government of India. The Government of India, he thought, had a perfect right to demand their own security, because they were the lenders of the money; and of course it was quite competent to them, as lenders, to refuse to lend on any other terms. It seemed to him that by the concession of that terminal charge a great public good would be gained, and that if this measure should be passed, a year hence every one would have occasion to rejoice that this objection had not been allowed to have effect. As an independent member of the Council, he had arrived at

this conclusion simply on a consideration of the papers before the Council, and he would therefore vote in favor of this clause.

His Honor the President said that he had to say one or two words more before putting the question to the vote. *First*, he would beg very distinctly to assure the hon'ble member on the right (Mr. Robinson) that nothing was further from his intention than to attempt to throw opprobrium on him or upon any other member who opposed this clause of the Bill. His Honor was quite sure that any attempt on his part to do so would be wholly unsuccessful. The public character of the hon'ble gentleman stood far too high. As he had said before, and as he said again, he thought that this was a matter for the exercise of judgment, and not for casting opprobrium on one side or the other. Far from attempting anything of the kind, he had been extremely struck with the lucid way in which the hon'ble members had put forward the extreme importance of having this bridge, and the various considerations which influenced their minds in coming to a determination upon this subject. He had himself never so fully and entirely realized the enormous importance of this proposed bridge, as since he had heard the speeches of those hon'ble members. But as respects his own position as the head of this Government and the President of this Council, he was in that position that the first clause of this Bill which was passed enabled him to make this bridge, but we could not make a bridge without money; and the only way of getting money which he saw at present was to get the money from the Government of India. They proposed to lend the money only on certain terms, and therefore if those terms were not complied with, he would be perfectly helpless, and most undoubtedly on that account we should have to postpone the further consideration of this measure.

On the question whether the risk which might possibly be incurred by an undertaking of this kind should be borne by imperial funds or local funds, he had already expressed a strong opinion. He thought that the Government of India justly said that this should be treated as a local matter, and that the risk, such as it was, should be borne from local resources.

As respects the particular form of the scheme which had been laid before the Council, he might say that his opinion had not been always so strong; in fact he had seen reason much to consider the subject, and had turned it over a good deal. The opinion at which he arrived had been much better expressed than he could have done by the learned Advocate-General, who had told the Council that the object was of enormous importance, and though the scheme might not be free from objection, it was the only feasible scheme ready for execution, and the question was whether the Council would accept that scheme, or whether they would wait in the hope that some better scheme might be brought forward at some future time.

Perhaps he might have used language in a somewhat loose and indiscreet manner when he had described the objections that had been raised as sentimental. He quite agreed that the public bodies who had raised those objections were entitled to the greatest respect. But at the same time he had been very much struck with the conclusion that had been come to by the hon'ble member on the left (Mr. Wyman), that though the scheme was objectionable in theory, *it would not do any particular harm to any one.* And as suggested by the learned Advocate-General, His Honor did think that the statement made by the hon'ble member did in fact express what His Honor had expressed in a somewhat bungling manner by the use of the word "sentimental," that it was more an objection in theory than one founded on the belief that the charge would do any very great harm to any one.

With respect to what had fallen from the hon'ble member on the right (Baboo Digumber Mitter), he must explain that the object and intention of the Government in respect to this bridge was at first to let foot-passengers go free. That was still an object that the Government had at heart, and if the receipts from the bridge would enable us to free foot-passengers from the payment of tolls, we should certainly do so. That, as he had said, was the original scheme, but it was a scheme which it was impossible to put into force at present, because the construction of the bridge was found to be so expensive that it would be impossible to be sure of a sufficient

income from the bridge without including a light tax upon the passenger traffic. Therefor that portion of the Bill must stand for the present. But he would repeat the assurance tha it was the intention of the Government, if possible, to free foot-passengers from the payment o any toll whatever, if they should ever be in a position to do so.

Well then, as he had said, the question which must be determined by the Council now wa simply this, should this particular scheme go forward or should it be dropped. He did no say that by rejecting this scheme the Council would shut itself out for all time from the con sideration of any other scheme. But he would repeat once more that if they rejected thi scheme, which was ready to be put into execution, they would inevitably throw back the whol subject into the realm of chance and the future. If hon'ble members were so confident tha the bridge must inevitably pay, he did not see why one of those great public bodies, th Corporation of the Justices or the Port Trust Commissioners, should not undertake this work and make the funds which they administer responsible for the interest of the money which would be lent by the Government. He could only say that if the present Bill should b rejected, and if at any future time any scheme should be brought before the Government by which the money of the Government might be secured, why undoubtedly that scheme would receive the fullest and most respectful consideration of the Government.

With reference to the question that had been put by the other hon'ble member on th right (Mr. Wordie), he would say this, though he could not speak with confidence on th subject, because the money would come from the Government of India, and he could not b responsible for what their views might be, but his impression was very strong that the Government were not at all anxious to see their money absolutely refunded: all that they required was good security for their money. At the same time the hon'ble member must remember that the character of the work was of a perishable nature: you cannot expect a bridge of boats to last for ever. It must wear out: it must become out of date. It might be blown away by a cyclone. It was possible that ten or twenty years hence we might not be content with such a bridge. Various eventualities might arise which would render the materials of this bridge almost worthless. Therefore in his view it was absolutely necessary, in regard to this scheme, that provision should be made for a large sinking fund to replace the capital, when in the natural effluxion of time this bridge should disappear: a good sinking fund was an indispensable necessity in this scheme.

With these observations he would merely say that supposing unfortunately this clause should be rejected, he would not at once withdraw the Bill from before the Council, but he must postpone it *sine die*. He would give an opportunity to hon'ble members to lay before the Government other schemes by which the money of the Government might be amply secured. At the same time he must repeat once more that he was quite satisfied that the Government of India would not be content with the security of the tolls alone: they must have some further collateral security before they advanced money for the construction of a bridge; and if the scheme before the Council was rejected, he thought hon'ble members would eventually be sorry for it.

The Council then divided—

Ayes 4.	*Noes* 6.
Mr. Wordie.	Baboo Digumber Mitter.
Mr. Wyman.	Moulvie Abdool Luteef.
Mr. Robinson.	Mr. Bayley.
Mr. Schalch.	Mr. Thompson.
	The Advocate-General.
	The President.

The motion was therefore negatived.

HONOR THE PRESIDENT said, since section III now stood part of the Bill, he thought it that the Council should proceed with the consideration of the other clauses of the though the most important provision of the Bill had now been agreed to, inasmuch as

such strong opinions had been expressed against it by several commercial members of the Council, the Government would be willing, at any time before the Bill reached its final stage, to take into consideration any plan by which the money advanced by the Government for the construction of the bridge might be fully secured. But at the same time he thought that, after the speeches that had been made to-day, every member of the Council must be impressed with the enormous advantage to be gained by the construction of this bridge, and the Government would be wanting in its duty if it hesitated to carry out the measure with the greatest possible dispatch.

MR. ROBINSON said he should be glad to take advantage of the proposal that the further consideration of this Bill might be postponed for a short time, for this reason, that he was not aware, and very much doubted whether any alternative scheme had ever been laid before the supreme Government. He thought that it was perfectly possible to show on very good data that the mere collection of tolls from the traffic on the bridge would be amply remunerative. On this ground, unless any further action could be taken now with regard to this section, he would, if possible, like to see the consideration of the Bill postponed to some future time. He himself was convinced that this bridge would be enormously remunerative beyond anything that the Government ever contemplated, and he should therefore like to see an alternative section contained in the Bill, that on its being found that the receipts from the tolls on the bridge itself came to a certain amount, that it yielded a certain percentage on the capital invested, this objectionable general charge should be given up. He thought that that would be an alternative that would afford some satisfaction to the public, who universally objected to the terminal charge; and he thought that it would also be a graceful concession on the part of the Government to make, as it would give the commercial community an opportunity of showing the correctness of their views.

HIS HONOR THE PRESIDENT said he could assure hon'ble members that the Government had not the remotest wish to make money by this bridge, and consequently that any suggestion of the kind made by the hon'ble members would receive full consideration. But at the same time, with reference to what he had said with regard to the views of the Government in respect of the passenger traffic, it might be a question whether a remission should not first be given to the traffic of foot-passengers. He need not say anything more at this moment, because he was ready to accede to the wish of the hon'ble member that the further consideration of the Bill should be postponed to the next meeting. He hoped that in acceding to this proposal it would not delay the consideration of the Bill, because now that this section had been passed by the Council, other matters would probably require careful consideration. He would therefore postpone the consideration of the Bill for a fortnight, and probably we should then be able to carry out the settlement of the remaining clauses at the next meeting of the Council.

The further consideration of the Bill was then postponed.

EMBANKMENTS AND DRAINAGE.

MR. SCHALCH moved that the time prescribed for the submission of the report of the select committee on the Bill to provide for embankments and drainage be extended for three months. He said he might mention that the select committee had already considered the Bill, and made some few alterations in it; but as the Bill would make extensive alterations in the existing law, at the request of the committee, the Bill, as revised by them, had been published for general information; and the committee were desirous, before they submitted their report, to see whether the parties interested in the Bill had any objections or suggestions to offer. He therefore proposed an extension of three months to enable the committee to receive from tions, and consider them, before submitting their report.

The Council was adjourned to Saturday, the 13th proximo.

Saturday, the 13th May 1871.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *presiding*.

J. GRAHAM, ESQ., *Advocate-General*,
A. R. THOMPSON, ESQ.,
S. C. BAYLEY, ESQ.,
V. H. SCHALCH, ESQ.,
MOULVY ABDOOL LUTEEF KHAN BAHADOOR,
T. M. ROBINSON, ESQ.,
F. F. WYMAN, ESQ.,
T. H. WORDIE, ESQ.,
AND
BABOO DIGUMBER MITTER.

HOOGHLY BRIDGE BILL.

MR. SCHALCH moved that the report of the Select Committee on the Bill for the construction of a bridge across the river Hooghly between Howrah and Calcutta be further considered in order to the settlement of the clauses of the Bill.

The motion was agreed to.

HIS HONOR THE PRESIDENT said that before proceeding with the consideration of the proposed amendments in section 3, he would ask the permission of the Council to proceed with section 4, which he would wish to precede the third section, and he would take the opportunity of explaining the course which the Government proposed to pursue in regard to this matter. At the last meeting of the Council he had explained that he would postpone the consideration of the Bill partly to enable the Council to consider the details of the clauses, and partly in order to enable any hon'ble member of this Council, or of the public who might choose to do so, to propose any alternative scheme by which the money advanced by the Government for the construction of this bridge might be guaranteed in a manner more acceptable to the commercial community and the public at large. In the course of the fortnight that had elapsed he did not think anything had been suggested that might properly be called an alternative scheme in regard to guaranteeing the funds for the construction of the bridge. The only scheme which had been very lately laid before the Government in a somewhat summary shape was the scheme of the Port Trust Commissioners, from which it appeared that the commissioners, by a majority of their number, had resolved to intimate to the Government their willingness to pledge a certain portion of their property for the interest of the money advanced for the construction, not of this bridge, but of a permanent bridge of an entirely different character from that which this Bill contemplated.

The view which His Honor took of that proposition was this, that to entertain it would of course inevitably entail very long delay. It seemed quite clear that if we undertook to consider a proposition of this kind, and deferred the consideration of this Bill, the result would be that there must be for years to come correspondence and comparison of the different schemes of rival engineers, and a multitude of other considerations must be passed in review before any conclusion could be come to in respect to this proposal of building a permanent bridge over the Hoogbly. That proposal was at the present moment, if he might so express it, in a most embryo state; that was to say, the gentlemen who advised us in this matter were the Port Trust Commissioners, who had submitted a proposition for the construction of a permanent bridge. That proposition was at present in so vague and uncertain a shape, that he understood the resolution of the majority of the commissioners stated that probably a permanent bridge might be built for £400,000, and if not for £400,000 then for £500,000, and we also knew that an eminent engineer had estimated the bridge to cost £600,000. The whole of these differences in the estimates would have to be settled, and we would have to enter upon a new discussion on a new subject before we could come to any conclusion upon it. Therefore the view [illegible] took was this, that the Government would not be justified in postponing this

Bill, and in so doing postponing the construction of a bridge *sine die* or for an indefinite time. He was quite willing to say that in the event of this Bill being passed, this Government would be willing to submit to the Government of India the suggestion of the Port Trust Commissioners. But his impression was that the Government of India were likely to say—"We have fully considered this matter, and we have come to the conclusion that under all the circumstances a floating bridge will be preferable;" and he thought that in that case the Government of India would probably be justified in saying that we should not longer expend time in discussion. The best thing was to build a bridge of some sort, and it appeared to His Honor that we should not be held justified if, with the view of possibly getting at some future period a permanent bridge, we postponed in an indefinite manner a proposal which had now taken a definite shape, and was ready for immediate execution. He was quite willing to admit that the question between a floating and a permanent bridge was one that required the gravest and best consideration. He believed that eminent engineers, whose opinions were entitled to the highest consideration, had hitherto concluded that under all the circumstances it was better to go on with this plan for the construction of a floating bridge. He might further say that in the view of an hon'ble member of Council who was at one time concerned in the proposal for constructing a floating bridge, there was considerable advantage in respect to a floating bridge; in this respect, that if it did not answer, or it was considered desirable to remove it, we could remove it. It was not like a permanent bridge, which was irremovable. The advantage of a floating bridge was this, that you could move your boats and materials and use them at some other point in this great river and construct the bridge there.

Well then the determination of the Government being to go on with this Bill, he was anxious to concede all that was possible to the views expressed by the mercantile members of this Council and others of the community with regard to the terminal charge. He felt that to those opinions great respect was due. At the same time recent discussions had led him to hope that those opinions had since been a good deal modified. There were a good many people who were inclined to think that they would rather submit to a terminal charge than do without a bridge. The Government therefore were not prepared to abandon that point. But what His Honor was prepared to do was this. He was prepared to say that beyond obtaining a sufficient guarantee for the money advanced, the Government were not in any sense inclined to oppose their own views to those of the mercantile community. And his object in making this change in respect to the order of sections 3 and 4 was this, that he was quite willing that section 3, which would enable us to levy tolls on the bridge, should be taken as the primary and first source of supply, and that section 4, which would enable us to levy a terminal charge upon goods, should be taken as a secondary source of supply, and one which might perhaps at some future time be abandoned. Our view was, that it was absolutely necessary, in order to the construction of this bridge, that we should commence with both these sources of supply; but he was ready to declare, and he did declare, that as far as he was the representative of this Government, when the bridge was in active operation, if it was proved by counting the carriages and carts and other things crossing the bridge, that the tolls would be sufficient to support the bridge, then, if the mercantile and the general community of Calcutta should be at that time of the same mind in which they lately were when this Bill was last discussed, we should be glad to defer to that opinion and abandon the terminal charge in favor of a system of charges and tolls wholly upon the bridge. He would not pledge the Government absolutely to do this, because it was quite possible that the mercantile community might find that the system of a railway terminal charge was to them an easier and more convenient mode of charge than the taking of tolls upon the bridge. It must be remembered that not only was it a simpler form of charge, but that it would also get rid of great difficulty and obstruction caused by the collection of tolls from each individual cart and passenger and carriage while crossing the bridge. But however that might be, he merely said th possibly the community might change their mind; but if they did not change their

was quite sure that the Government had themselves no such preference for such a particular mode of raising money that it would induce them to oppose the public opinion of the city and of the mercantile community. And therefore he said again that if they wished to get rid of this terminal charge, and it should be proved that the tolls would be sufficient to support the bridge, we should be willing to abandon this particular form of charge.

With the permission of the Council he would therefore postpone the consideration of section 3 till section 4 had been considered.

MR. SCHALCH said that before proceeding to propose the amendments of which he had given notice, he would ask the permission of the Council to say a few words as to what had fallen from His Honor the President in connection with the proposition made by the Port Trust Commissioners. As he (Mr. Schalch) happened to be connected with that body, he was in a position to state the reasons that induced them to make that proposition. They did not desire to postpone the passing of this Bill, or to interfere in any way with the legislative action of this Council; because it would be observed that the Bill in itself made no reference to any special description of bridge; therefore it appeared to him that in passing the Bill we should get rid of any difficulty in regard to the construction of a bridge, either floating or permanent, and then the question would come up, What class of bridge should be constructed?

The Port Commissioners entertained a very strong opinion of the relative advantages to be derived from a floating and a permanent bridge. They felt sure that the advantage to be derived from a permanent bridge would be so very much in excess of that of a floating bridge, especially as regards the goods traffic which could be carried over the bridge without breaking bulk, and that this bridge would so largely increase the value of property on the Strand bank, that they were willing, in consideration of the risk attending the additional expense that would be caused by the construction of a permanent bridge, to pledge a portion of their property, the annual value of which would not be less than ,000, as security to the Government for the repayment of the sum advanced by the Government for the construction of such a bridge. They felt also that while it was a question whether a floating bridge could be constructed for ten lakhs of rupees, there should be no delay in the construction; because it was certain that if a floating bridge could be constructed for such a sum, there would be little difficulty in substituting a permanent bridge subsequently or recouping that amount from the proceeds of the bridge. But when, as we now found, a floating bridge would cost, not ten lakhs of rupees, but nearly double that amount, the Port Commissioners were strongly of opinion that the construction of a floating bridge at such a cost would put off for many years the construction of any permanent structure.

Another point was that the Commissioners had failed to put their proposed scheme in a sufficiently full form before the Government. All that they wished to do was, that when the Bill was passed the Government should carefully consider whether, looking to the now greatly increased expenditure for a floating bridge, it might not be better at once to construct a permanent structure; and with the view to enable the Government to do so, they had laid before the Government this scheme, which was merely a rough modification of one which had been already suggested by that eminent engineer Mr. Rendel, showing what alterations might be made so as to bring the construction of the bridge fairly within an expenditure of from forty to fifty lakhs of rupees. If it could be constructed for fifty lakhs, it was scarcely a matter of doubt that with the collateral security now offered by the Port Commissioners, the necessary advances might be made without involving the Government in any risk. And it was merely to enable the Government to re-open the question and consider it in all its bearings that they had submitted the present report. They felt also that while a floating bridge would cause great danger and risk to the heavy boat traffic which was now carried on on the river, that danger might be obviated to a great degree if a permanent bridge were constructed.

His HONOR THE PRESIDENT said he should like, before the hon'ble member proceeded with amendments, to explain the view which this Government had taken with reference to the

remarks that had just been made. He was quite willing to admit that he perhaps was wrong in speaking of this Bill as one for the construction of a floating bridge: he had no doubt the Bill would suit either a floating or a permanent bridge. At the same time it was notorious that this Bill had been promoted with the view to the construction of a particular bridge, viz. a floating bridge; and in the position in which the Government of Bengal was now placed, he could not hold out any hope or promise that this Government would take upon itself to consider the relative merits of a permanent bridge as opposed to the scheme which was already advanced, and which was now before the public. All that he could say was that if the Bill should be passed, in submitting the matter to the Government of India, he would also submit the proposal of the Port Trust Commissioners, which he thought was entitled to every respect. If the Government of India should think fit to reconsider the matter, why of course it would be open to them to do so, and there was nothing to prevent their doing so. But he could not give a pledge either on the part of the Government of Bengal or of the Government of India, that if this Bill was now passed, we should delay to go on with the floating bridge, the scheme for which had already proceeded to such an advanced point.

On the motion of MR. SCHALCH, section 4 was amended by the omission of the words "and for goods engaged on the Railway of the East Indian Railway Company into or from their station at Howrah;" and the section was transposed so as to stand before section 3.

Section 3 was agreed to with a verbal amendment.

On the motion of MR. SCHALCH the following section was introduced after section 4:—

"The said Lieutenant-Governor may appoint such person or persons as he shall think fit to collect tolls, fees, and charges under this Act, and also to take charge of the said bridge and to superintend the traffic thereon."

In section 7, on the motion of MOULVY ABDOOL LUTEEF, "Hindoostanee and Hindee" were added to the languages in which the bye-laws and tables of tolls are to be exhibited

Section 8 was passed with verbal amendments.

To section 9 the following clause was added on the motion of MR. SCHALCH:—

"Interest at the rate of four and a half per centum per annum shall be charged on such sums respectively on the 31st day of March and the 30th day of September in each year from the respective dates upon which such sums shall have been advanced up to the date of the opening of the said bridge for traffic; and all sums so charged for interest as aforesaid shall be deemed to be sums advanced within the meaning of this section."

Section 10 was passed after verbal amendments.

Section 11 was agreed to after the correction of a misprint, the words "the said commissioners" being substituted for "three commissioners."

Sections 12 to 16 were agreed to after verbal amendments.

Section 17, after amendment, stood as follows:—

"Whenever the half-yearly accounts to be laid before the Lieutenant-Governor of Bengal under the provisions of this Act shall show a surplus of income over expenditure, such surplus, or so much thereof as the said commissioners shall think fit, may be invested by the commissioners in the purchase in their corporate name of Government securities, and the interest thereof may be accumulated and invested in like manner, with power to the commissioners at any time to dispose of any such securities, and to apply the proceeds and interest thereof, with the sanction of the Lieutenant-Governor, in or towards any of the purposes of this Act."

Section 18 was passed with a verbal amendment.

The following section was introduced after section 20:—

"XX. (*a.*) After the repayment of all sums advanced under the provisions of section 9, whenever an estimate is submitted or resubmitted pursuant to the next preceding section, if the Government securities then held by the commissioners shall have been declared by them at a meeting, and shall be considered by the Lieutenant-Governor to form a sufficient reserve fund for the purposes of this Act, then the said Lieutenant-Governor shall so regulate the scale of fees, tolls, and charges in relation to the said bridge, as that the probable income derivable therefrom shall be no more than is sufficient to defray the expenditure and sum in the said estimate."

Section 22 was agreed to with a necessary amendment.

Section 24 was passed after the inclusion of sections 24, 25, 26, 28, 29, and 37 amongst the provisions of Act V. of 1870 (the Calcutta Port Improvement Act) to be made applicable to this Act.

The schedule as amended stood as follows :—

SCHEDULE.

REFERRED TO IN SECTION III.

Maximum amount of tolls, fees, and charges.

	As.	P.
For every foot-passenger with or without load	0	3
For every horse	1	0
For every pony	0	6
For every buffalo	1	0
For every cow, ox or bull	0	6
For every calf, sheep, goat or pig	0	3
Or per score	3	0
For every two-wheeled vehicle without springs	1	0
Ditto ditto carrying goods or animals or passengers ...	3	0
For every two-wheeled vehicle with springs	2	0
For every four-wheeled vehicle without springs	2	0
Ditto ditto carrying goods or animals or passengers ...	4	0
For every four-wheeled vehicle with springs other than a 2nd or 3rd class hackney carriage	4	0
For every maund of goods conveyed over the bridge on a tramway or railway	0	4
For every empty truck using a tramway or railway	4	0

Animals drawing any of the above vehicles to be charged in addition to the charge on the vehicle.

For every second class hackney carriage	1	0
Ditto ditto carrying goods or passengers	3	0
For every third class hackney carriage	1	0
Ditto ditto carrying goods or passengers	2	0
For every palankeen and bearers.	2	0

Section 1, the interpretation section, and the preamble and title, were then agreed to.

HIS HONOR THE PRESIDENT intimated that at the next meeting of the Council he hoped that a Bill for the imposition of rates on immovable property would be brought forward.

The Council was adjourned to Saturday, the 27th instant.

Saturday, the 27th May 1871.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *presiding*.

J. GRAHAM, ESQ., *Advocate-General*,	MOULVY ABDOOL LUTEEF, KHAN BAHADOOR,
A. R. THOMPSON, ESQ.,	F. F. WYMAN, ESQ.,
S. C. BAYLEY, ESQ.,	T. H. WORDIE, ESQ.,
W. H. SCHALCH, ESQ.,	AND
H. BERNARD, ESQ.,	BABOO DIGUMBER MITTER.

HIS HONOR THE PRESIDENT took the oath of allegiance and the oath that he would faithfully fulfil the duties of his office.

HOWRAH BRIDGE.

Before moving that the Bill for the construction of a bridge across the river Hooghly between Howrah and Calcutta be passed, MR. SCHALCH moved that the Bill be re-considered in order to the settlement of the clauses, to enable him to move certain amendments therein.

The motion was agreed to.

Verbal amendments were made in sections 3 and 9.

On the motion of MR. SCHALCH the following words were added to section 14, to make it clear that the property of the Port Trust Commissioners should only be liable under this Act so far as it was derived from, or related to, the bridge:—

"And nothing in this Act contained shall be construed so as to render the said Commissioners liable to make good any money payable by them under the provisions of this Act, or otherwise in relation to the said bridge, except out of property and monies held by them in trust as aforesaid."

In the schedule the words "mule or ass" were added to the item charging a toll of six pies for every "pony" going across the bridge: and a new item charging one rupee "for every locomotive steam engine" was inserted.

Mr. SCHALCH then drew attention to the item in the schedule which provided a toll of three annas for every two-wheeled vehicle without springs carrying goods. He pointed out that the terminal charge on goods going by railway was fixed at two pies per maund, and the charge for a hackery carrying goods—twenty maunds being the ordinary load of a hackery—had been fixed at three annas, or about two and one-fifth pies per maund of goods, so as to assimilate the toll on goods crossing the bridge as nearly as possible to the terminal charge of two pies per maund.

BABOO DIGUMBER MITTER said that he thought the toll on goods crossing the bridge should be levied on the weight of the goods and not by the hackery load, as a cart did not always carry the same load.

THE PRESIDENT said he thought that any amendment to the effect of that suggested by the hon'ble member was inadmissible at this stage of the Bill: it would be very inconvenient to consider any such amendment now, and therefore hon'ble members had been requested to give notice of any amendment they wished to move in the schedule. The effect of any such amendment would be to make an essential change in the principle of the schedule, and would involve very difficult considerations, and it would besides be a question whether it would be possible to weigh goods during their transit over the bridge.

MR. WORDIE pointed out that he believed it was settled at the last meeting that hackeries carrying across the bridge goods which had paid the terminal charge should not be subject to the payment of toll; but he saw no provision in the Bill which would secure such exemption.

THE PRESIDENT said, that certainly was the intention, and if it was not sufficiently provided for under the Bill, he would undertake to give a pledge that such a charge should not be made, which he trusted would satisfy the hon'ble member.

Mr. Wordie having declared himself satisfied, the Bill was then passed.

PROVINCIAL FINANCES.

HIS HONOR THE PRESIDENT said, the business before the Council being now concluded, he would announce that the meeting would be adjourned to Saturday next, on which day he hoped Mr. Schalch would introduce the Bill for imposing local cesses which he had already obtained leave to bring in.

His Honor would also take the opportunity of laying before the Council a statement which had been drawn up, showing the mode in which he had distributed the money placed at the disposal of the Government of Bengal by the Government of India. He was still inclined to believe that if we were to do all that it was desirable to do in the way of improvement, additional scheme, would be necessary to obtain by some means additional resources. The Cess Bill, which construction sufficient

be brought forward next Saturday, would aim at local objects only: it would aim to provide for the people of this country certain advantages which they did not now possess.

As regards the general expenditure which had been hitherto held to be imperial and was now provincial, the Government had, as he had said, drawn up a statement showing the mode in which we proposed to meet the charges thrown upon us. That statement he now held in his hand, and if the Council would permit him he should lay it before them, and should move that it be circulated amongst the members of the Council. He might take this opportunity to announce, with reference to this statement, that the Government had determined at the present moment not to bring in additional Bills for provincial taxation. But, as he had said, his impression was that eventually additional means would be required if we were to do more than we did at present. As he had observed on the last occasion on which he had laid before the Council a statement of the finances, we were somewhat behind the other Governments in regard to our propositions for provincial taxation, and he had then said that we should probably avail ourselves of the lessons which the experience of other local Governments might give us. Well, the lessons and the experience of those other Governments had hitherto not been very fortunate. We had seen a good many provincial financiers bring forward Bills which they had subsequently been obliged to withdraw. We had seen that the Government of the North-Western Provinces had brought forward a License Tax Bill and subsequently withdrawn it. We had seen that the Government of Bombay had brought forward a Bill for imposing a tax upon feasts, and had subsequently withdrawn it. We had seen that even greater financiers than those he had mentioned had been obliged to withdraw the financial schemes which they had submitted to the representative assemblies who possessed the legislative authority. Now he might say that the object of the Government was this, that we should not bring before this Council any Bill for the imposition of a new tax until our proposals had been thoroughly well considered. Our hope was, that when we laid before the Council a Provincial Taxation Bill, we should have so well considered the measure, we should have so well balanced it, and we should have so well adjusted it and fitted it to the means and resources and wants and wishes of the country, that our Tax Bill would be carried by universal acclamation: that we should make our taxes so acceptable, that the people would be glad to pay them in consideration of the benefits they would receive, and we should not be put in the somewhat humiliating position of withdrawing our proposals. Therefore the view which the Government took was this, that rather than introduce hasty and insufficiently considered Tax Bills, we should adopt the very homely plan of cutting our coat according to our cloth. In respect of the expenditure of the present year, that was exactly what we had done. We had not considered very many desirable improvements that might be made, but we had considered the amount of money at our disposal, and we had tried to dispose of it to the best advantage. The Government had considered themselves restricted to the limits of that money, and had not attempted to undertake improvements or alterations which would go beyond that limit.

The consequence was that the statement which he had now the honor to submit to the Council showed, as the result of our proposed expenditure for the year 1871-72, an exact equilibrium. In laying that statement before the Council he must explain that the permanent assignment which had been made to us by the Government of India after certain modifications of the resolution of the 14th December last, effected by subsequent resolutions of the Government of India, stood at Rs. 1,19,78,978. In addition to that permanent assignment made to us, and which we shall receive year by year for the expenses of the administration, we had added to our resources a proportion of the savings of the year 1870-71, which was also by a subsequent resolution of the Government of India placed at the disposal of the local Government. Now our course in this respect, compared to the course followed by the other local Governments, might be considered to be somewhat improvident; it might be considered to have sailed somewhat near the wind. Other Governments, with great appearance of reason, and very great reason, had resolved that they would not include these savings of the

past year—these windfalls—in the budget allotments of this year, but would reserve them as a means of meeting casual demands which might arise in the course of the year. We had not followed that course. We had added the savings of 1870-71 to the present assignment, in order to obtain the total sum which was exhibited by the statement which he had laid before the Council for expenditure in 1871-72; and our hope is, that by economy in the working of the various departments we may succeed in not going beyond those limits; and we trust that if we so use our resources as to tide over the present year, the measures which we may be able to lay before the Council before another year will, by the liberality of the members of this Council, enable us to meet the deficiency which must arise in the subsequent year, owing to the absence of these casual receipts to which he had alluded, and to carry out the improvements in the administration which may be necessary. These receipts from the savings of the year 1870-71 amount to Rs. 5,32,900. We have estimated the receipts from the various departments for the year 1871-72 to amount to Rs. 22,91,554. Adding together, then, the permanent assignment, the savings of 1870-71 allotted to Bengal, and the estimated receipts from our provincial departments, the total sum at our disposal will be Rs. 1,48,03,432. That was the amount the Government proposed to dispose of in the manner shown in the column headed "Provincial grants for 1871-72" in the statement now in his hand.

He might mention that the mode in which the Government of India had allotted to u the assignments for provincial services under the original resolution was taken on the basis o the assignments for the year 1870-71, and was reduced by about seven per cent. The subse quent savings that were given to us for once amounted to Rs. 5,32,900, or about four per cen of those allotments; and the deduction therefore from the assignments for 1870-71 was no for the present year, more than about three per cent. Well, let us compare the provision ma for the provincial services for the year 1871-72 with the amounts which are thus allotted to us and it will be found that in respect to the departments of jails, registration, education, and medical—in respect to these four heads, we have not been able to make any considerab savings upon the sums which were provided for those services in the year 1870-71. The consequence is, that the allotments being reduced by three per cent., a deficit is shown in the accounts. Under these four heads—of jails, registration, education, and medical we show a deficit of something like Rs. 1,75,000. That deficit has been made up in this way. The department of police had been considerably revised, and the Government had by that revision been able not only to get over the deficit which would otherwise have occurred, but to establish a surplus amounting to Rs. 61,894. We had also, in respect of printing, obtained a surplus of Rs. 1,11,838. He might explain that this surplus was to a certain extent caused by the operation of a fortunate windfall, which had occurred not so much by diminishing the actual expenditure on account of printing, but by a diminution of the charges of the Alipore Jail Press, which on a former occasion he had stated to be exorbitant. At the same time it must be stated that the effect of this saving in regard to the nominal printing charge had diminished to a considerable extent the jail receipts. The diminution of the jail receipts did not affect our provincial services, because the fact was that the whole profits of our jail manufactures did not go towards imperial or provincial purposes but were partly given over for the purpose of local roads as part of the resources of the district road fund. In this respect only would the local resources be injuriously affected by our present financial arrangements; but it seemed to him that there was no ground for complaint in this respect, because the sum taken from local roads by these arrangements is not a very large sum, and it is a sum which, it might be said, does not honestly and fairly belong to those local funds, because it was the result of a gross overcharge in respect to jails, and one which would have been brought to an end, and was brought to an end, entirely irrespective of the financial arrangements.

Well, then, the result of the assignments which he had mentioned was, that we had a deficit of Rs. 1,75,000 in the four departments he had already mentioned, in

and printing departments we had a surplus of Rs. 1,75,000, and therefore the several civil departments exactly balanced one another and established an equilibrium.

There remained the department of public works, which was exhibited separately at the foot of the statement he held in his hand. In respect to this department he would say, as had been said by an eminent financier, Mr. Massey, the late finance minister of the Government of India, that public works were entirely within our own control, so far at least as regards new works. It might be desirable to carry on great public works, and the improvement derived from these works might be enormous; but still they were within our own control. In former years we had sixty or seventy lakhs at our disposal for public works; in 1870-71 that sum was cut down to something like Rs. 350,0,000, and again in the present year it was reduced to Rs. 33,00,000, to which another lakh had been added from the savings, making the assignment on account of public works for 1871-72 Rs. 34,00,000. The Government had determined to restrict the expenditure in this department to the sum which had been allotted to it: we must make the most of it, and administer the department as economically as we can. It was better to do so by stopping those public works which we can stop, than to involve ourselves in financial distress; and some works must therefore be stopped till happier times.

He would conclude by moving that the statement to which he had referred be circulated.

The motion was agreed to.

The Council was adjourned to Saturday, the 3rd June.

Saturday, the 3rd June 1871.

Present:

His Honor the Lieutenant-Governor of Bengal, *presiding*.

J. Graham, Esq., *Advocate-General*,
A. R. Thompson, Esq.,
S. C. Bayley, Esq.,
V. H. Schalch, Esq.,
C. E. Bernard, Esq.,
Moulvie Abdool Luteef, Khan Bahadoor,
Rajah Joteendro Mohun Tagore, Bahadoor,
T. H. Wordie, Esq.,
and
Baboo Digumber Mitter.

EMBANKMENTS AND DRAINAGE.

The President moved that Mr. Bernard be added to the select committee on the Bill "to provide for embankments and drainage."

The motion was put and agreed to.

DISTRICT ROAD CESS.

Mr. Schalch said; on a former occasion he had moved for leave to bring in a Bill to provide for local rates for local purposes. At that time, although the Government had accepted more or less the main principles laid down in the Bill prepared by the Cess Committee, they had not fixed decidedly on the details, and therefore we were then only able to fix very vaguely the title of the Bill proposed to be introduced. Since then the provisions and clauses of the Bill had been prepared, and he now begged leave to move that "a Bill to provide for local rating for the construction and maintenance of roads and other means of communication," be read in Council. On a former occasion he had mentioned how, in consequence of the inability of the Imperial Government to provide sufficient funds for the maintenance of means of communication and for the furtherance of education and other purposes of a local nature, it had been considered to have recourse to legislation to enforce the payment of local rates for such purposes. This gave rise to considerable discussion between the supreme and local Governments as to the manner in which the Bill should be framed, and a reference was made to the Secretary of State.

In a long despatch from that authority, the whole question was discussed. It was also discussed how far the permanent settlement interposed any obstacle to the imposition of a local rate; and, finally, it was settled that legislation should be had recourse to, and certain main principles were laid down, which it was suggested should be observed in framing the Bill. He thought it necessary to refer to these main principles, because they had in a great measure guided the Cess Committee in making their report to Government and preparing the Bill. These main principles were divided into four heads:—

"Such cesses should be laid upon the owners of land only in common with other owners of property, which is of a kind to be accessible to the rate."

"Where such rates are levied at all, they ought, as far as may be possible, to be levied equally, without distinction and without exemption, upon all the holders of property accessible to the rate."

"The local character of these rates could be emphatically marked by committing both the assessing of them and the application of them to local bodies * * * * so as, if possible, to carry the people along with us through their natural native leaders, both in the assessment and in the expenditure of local rates."

"The benefits to be derived from the rates should be brough thome to their doors,—that these benefits should be palpable, direct, immediate."

As the Bill was one of very general importance, he must trespass some little time on the patience of the Council in explaining its main provisions; and in doing so he would follow the order which the Bill had itself adopted. After an explanation of certain words used in the Bill, the main principle was laid down in the 3rd section of the Bill, where it was proposed to be enacted that "all immovable property should be liable to the payment of a district road cess, to be applied to the construction and maintenance of roads and other means of communication, to be assessed thereto as hereinafter provided, and to be leviable on the several owners and occupiers of such property, in the proportion and in the manner as hereinafter provided."

The Cess Committee, in their report, observed—

"In the long discussions on the question of principle which preceded the despatch of the Secretary of State, it has all along been assumed that whatever might be the ultimate form in which local taxation might be proposed, a tax upon land would necessarily be a prominent part in the scheme.

They accordingly based their report on that principle, which the Government were inclined to adopt. In an agricultural country like Bengal, where certainly three-tenths or more of the population were directly or indirectly concerned in the land, it was clear that a tax which was not based upon the land would not reach the masses of the people, and it appeared to him that it was only by reaching the masses that any system of equal and fair taxation could be introduced: and more so, because all the interests concerned in, or connected with the land, were more intimately and directly benefited from the works which it was proposed to construct, and for which the cess would be levied.

The Bill, it would be observed, was divided into three main parts as regards assessment. First, it provided a cess upon land; secondly, it provided for a cess upon mines, quarries, tramways, railways, and other immovable property, which might not have been brought under the incidence of the Act by any of the other provisions; and lastly, the Bill provided a cess upon houses, including manufactories.

As regards the cess upon land, the first question to be determined was, on what basis the assessment should be made and the valuation should be formed. The Cess Committee observed that there were three modes on which the valuation could be based: the first was to frame the valuation upon the Government jumma; the second method was to base the valuation on the acreage of the land; and the third was to base the valuation on the gross rental. The Committee went very fully into the reasons which they thought were applicable to each of these cases, and finally decided in favor of basing the valuation on the gross rental. In these reasons the Government concurred, and adopted that principle in framing the Bill. Of course in adopting this principle the first step to be considered was how information was to be procured as to

the gross rental of the land; and this it was proposed to do by first issuing a proclamation to the country generally, requiring proprietors to submit within three months a return of the gross rental of their estates and under-tenures; and to avoid any misconception of the law, individual notices would be served upon those zemindars and under-tenants who might fail to act up to the conditions of the general proclamation requiring them to submit the necessary papers in regard to their estates and tenures. At this stage two objects had prominently to be sought for—first, the punctual submission of the returns; and secondly, their correctness. It was proposed to attain the first of these objects by two means; first, by the imposition of a fine; and secondly, by the prohibition to sue for rents that may be due on any estate with regard to which the return had not been made. It might seem, and had been suggested, as being a very harsh measure, to impose this prohibition; but it must be remembered that ample time was given for the preparation and submission of these returns: and provision was also made that, if under certain circumstances the zemindars or tenure-holders should be unable to furnish these returns within the prescribed time, they could obtain such extension of time as might be deemed necessary to enable them to submit the returns. It would therefore be purely wilful negligence on the part of the person who was called upon to submit the return which would render him liable to the penalties provided, and it would be in his power to free himself from the prohibition to sue for rent by giving in his return. It might be said also that we had no right to call upon the zemindars for such minute information regarding their rent-roll; but he could not himself see the force of such an objection. When the decennial settlement was made permanent by Regulation I. of 1793, on the same day a regulation was passed prescribing the conditions under which that settlement was effected; and one of those conditions was, that every zemindar should maintain a putwarry in every village, and that it should be the duty of that putwarry to prepare papers relating to the lands and the charges and collections of the different villages, and in certain cases he might be called upon to produce these papers in court and to swear to the truth of them. Subsequent legislation had modified these provisions in some respects; and as the law now stood, it was compulsory on the zemindar to appoint putwarries when required, who were bound to give in accounts such as he had already stated. Again, by another regulation (IX. of 1833), no suit for rent could be instituted by landowners unless they had delivered in similar rent-rolls when required so to do. He himself recollected that this rule was stringently enforced in Orissa, and no suit was allowed to be instituted until what was called the *jumma wasil bakee* papers were produced. This was a condition which, under the present state of the law, could be carried out. It had been urged that this law had been long in abeyance, and that we had no right to resort to it. But he thought that while, on the one hand, the Government was bound to observe the pledges which they took upon themselves at the time of the permanent settlement, they were justified in putting into force and taking advantage of any stipulations which were then rendered binding upon the opposite party. And one of these stipulations was the appointment of putwarries for the preparation and collection of the estate papers, and the Government were quite justified now in requiring zemindars to give that information, although the information was required for another purpose.

Another object was to ensure the correctness of the returns, which was proposed to be done in two ways; first, by requiring that no zemindar or tenure-holder should be entitled to sue for more rent than might be entered in his return, these papers being capable of being used as evidence against himself. Of course, they would be of no value as evidence against the parties who were sued, and if the zemindar put down more rent than he had to receive, that would be his own loss: he would have to pay a cess upon that amount while he would not be able to recover.

Secondly, it was provided that the submission of a false return under this Act should be considered as a false return under the Penal Code, so as to render the person making the return liable to the penalty prescribed by that code. We were quite aware that in many cases these precautions might not be perfect. Where there were tenants holding certain rights of

proprietorship, or tenants with rights of occupancy, the zemindar would be careful how he falsified the return, because in these cases he would be obliged to have recourse to the law to enforce his claims. But undoubtedly, the case was different with the great mass of cultivators, who were mere tenants at will; the zemindar there, having power to oust the tenant at the close of the year, would seldom have recourse to the law courts for recovery of rent, and would therefore not be deterred from giving false returns, by the fear of affording evidence against himself. We allow that there is this difficulty, and we are prepared to face it rather than do away with the keystone of the structure of the Bill, namely, what we may call voluntary valuation, by which we endeavour, as far as possible, to assess each man on his own valuation, and thereby avoid the necessity of having any separate assessing establishment. We all know that the evils of such an agency are very considerable, and would be much greater in the assessment and collection of this cess than had been the case with regard to the income tax; and therefore, in place of such an agency, we had thought it better to leave the assessment in the hands of the people themselves, even at some risk of obtaining very incorrect returns.

The next subject to which he would call the attention of the Council was the mode of distributing the rate. This also had been gone into at considerable length by the Cess Committee, and they had arrived at the conclusion that the legislature, when it imposed a tax, was bound to define as accurately as possible its incidence, and not merely to lay down general principles which the tax-payers might themselves apply with the certainty of litigation.

We have adopted this principle, and in the 17th section we have provided how the tax should be distributed among the three classes of rate-payers; first, the zemindar or superior landholder paying revenue to Government; secondly, the tenant between him and the cultivator; and lastly, the cultivator himself. Of the necessity of fixing the liability to the rate of the first two classes, the zemindar and the under-tenant, he thought there could be no doubt. It was necessary that the committee should know in what proportion the tax was leviable from them. With regard to the cultivators, it was a somewhat more doubtful question. Where cultivators, as defined in the Act, as would frequently be the case, were tenants possessing certain rights, such as rights of occupancy, it would be necessary that their liability should be clearly defined. The question was more open to doubt in regard to the mass of the cultivators who would be tenants at will, and it had been objected that we were very improperly and uselessly interfering between the zemindars and the cultivators in laying down the proportion of the cess to be borne by the latter. On consideration, it had been thought better to fix a certain limit of liability on their part. Of course, whatever provision might be made in this respect, its adoption by the zemindar was optional, because he had it always in his power to terminate existing engagements with his tenants at will at the close of the year, when competition for land might make such a course expedient, and to make new agreements which should include the amount payable as road cess in addition to the previous rate. But we think that by giving the zemindar a legal remedy to recover a part of the cess from the cultivator, he will more frequently adopt it than seek to disturb existing arrangements. The principle we have adopted is, that the cess shall be paid both by the proprietor and by the occupier. The Cess Committee recommended that one-fourth of the rate should be paid by the proprietor and three-fourths by the occupier. They allowed that a more just division would be one-half to each; but as the burden of collection was thrown on the proprietors, they considered that in return some remuneration should be given to them, and the mode in which they proposed to give that remuneration would be by decreasing their proportion of the cess and increasing that of the cultivators. We, however, think it more fair to make the rate equal, each paying one-half, and to provide for the remuneration of proprietors for collecting the tax in another manner. The Cess Committee proposed that a deduction should be made of one-fourth of the amount of the rate on the amount of revenue or rent payable by proprietors. We now propose to raise that deduction to one-half. Calculating the Government revenue throughout Bengal at four crores of rupees, and the gross rental at twelve crores, the one-fourth addi-

tional allowance would, at the full rate of half an anna in the rupee, amount to something over three and a quarter lakhs of rupees, and it was submitted that that was a fair remuneration to give to the zemindar for the trouble and risk of collecting the rate. Therefore, as the Bill now stood, one-half of the rate would be paid by the proprietors and one-half by the occupiers. The actual rule laid down was, that each zemindar or tenure-holder should pay the full amount of the rate which might be fixed on the gross rental of his zemindaree or tenure, the proprietor having power to recover from each under-tenant on the same principle, while the cultivator was to pay one-half the rate on his rental. The result was that the proprietor actually paid one-half the rate upon his profits, and the occupier paid one-half the rate on his rental. Of course, while we can call upon the proprietor for a return of his gross rental, it would be utterly impossible to call on cultivators to return their gross profits: that would be utterly impossible both from their numbers and condition, and state of education and intelligence. We must therefore assume some data on which to calculate the rate on which the ryot should be assessed. It had been taken on his rental, on a rough assumption that his rent equals his profits. Of course, in making that assumption we are aware that it could hold good in no individual case; but taking them altogether, one with another, it might, he thought, be assumed that were the value of the gross produce divided into three equal parts, one would go for cultivation, one for rent, and one for profits. Of course this was a very rough calculation, because in two neighbouring estates the proprietor of one might be a liberal man, content to receive the rate of rent long in force, and the owner of the other estate might be an exacting landlord, who rack-rented his tenants, and therefore, the assumption might not hold good in individual cases or even in neighbouring districts. But unless we went upon the rental, he knew of no other mode on which to base the calculation for the apportionment of the rate on the third or cultivating class.

We now come to the mode of collection. It was proposed, in conformity with the recommendation of the Cess Committee, to fix the duty of making the collections upon the landlord. It was said that to impose this duty on landlords was a hard measure, but it was to be considered that we are giving them a fair remuneration for that duty, that they already had an agency for the purpose, that the cess that they would have to collect would be so small in proportion to the rent they already collected, that they would be put to no additional expense in making the collection, and that it was undoubtedly better that the ryot and zemindar should arrange these matters between themselves, than that there should be a foreign and unsympathizing agency for the collection intervening between the two parties. He believed, on the whole, that the zemindar would be fairly remunerated for any risk that he would incur in having to collect the rate. He would be more likely to show that consideration to the ryots which strangers could not be expected to do, and the employment of such for the collection of the rate would tend to the harassment of the people, not only of the ryots, but of the zemindars themselves. For the recovery of the cess we have given the zemindar the fullest power that can be given under the law for the recovery of rent. More than this it was not in the power of the Council to afford. On the other hand, the Government have taken the most stringent power that they can for the recovery of the cess, by making arrears of cess recoverable as arrears of revenue. A very large minority of the Cess Committee were strongly against this measure; they considered it very hard, not merely in its direct application, but from the fact of its rendering the landlord's property liable to sale for what might be very petty demands, and thus tending to depreciate the value of landed property in general. The majority, however, were of opinion that it was necessary for the Government to have some such power for the recovery of the cess. He might say for the Government, that they quite felt the force of the argument of the minority, and that they would be very glad if any well-considered amendment were proposed by the special committee, to whom he hoped the Bill would be referred, by which the realization of the cess could be ensured without having recourse to the very stringent measure the Bill proposed. The difficulty of making any other

provision arose from the very imperfect state of the record in the collector's books of the proprietary rights of zemindars. It would in many cases be impossible to know upon what party to come down, or who was the actual proprietor of an estate. If this could be known, there would be comparatively little difficulty, and a milder system for the realization of the cess could be adopted—one rather against the person than the estate of the proprietor. Unfortunately, under the existing state of the law, the record of the mutation of names was so very imperfect, that there was little hope that any great improvement could take place in this respect. But he thought it not impossible that the committee to whom this Bill would, he trusted, be referred, might hit upon some plan by which, when the person giving in the return was found to be the recorded proprietor, the realization of arrears might be made personal and not a demand on the estate. However, he was sure that the committee would give this matter their deliberate attention, and he was sure the Government would be willing to meet any fair amendment in this respect which would remove what was to a certain extent a blot on the Bill.

We next come to the third part of the Bill, which provides for a cess on a special description of immovable property, such as mines, quarries, tramways, railways, and any other description of property not brought under assessment by the other provisions of the Bill. The cess committee made no special provision for this kind of property, being of opinion that it would be met by the provision for an assessment either as land or as house property; but it was considered that unless a special mode of assessment was provided for them, the rate fixed under the other provisions of the Bill would not fairly meet their liabilities. Railways especially derived great benefit from the construction and maintenance of roads, and should pay a fair proportion of the tax. For these reasons, special provision had been made to regulate the cess upon this particular kind of immovable property. The only provision in this part of the Bill to which he need call attention was that for determining the valuation upon which the rate should be fixed. The cess upon land was fixed upon the *gross rental:* here it was proposed to call upon the proprietor to give in a return shewing the *annual profit*, and on their failure to do so, the collector might make a valuation, and if he was unable to do so, then six per cent. upon the value of the property would be taken to be the annual profits, and the assessment would be made on that calculation. There were no other provisions in this part of the Bill to which he (MR. SCHALCH) need draw the attention of the Council.

In the third part we come to the cess on houses. There was no doubt that there were very serious objections to a cess on houses in the ordinary acceptance of the term. He himself was strongly opposed to one. To meet the requirements of the Secretary of State, that all property accessible to the rate should be brought within its operation, it was now proposed to make this portion of the Bill wh athe would call "alternative," that is to say, the cess under this part would fall only on those portions of immovable property which had not been assessed under any other part of the Act, except in the cases where a profit might be made by a profession or trade independently of any connection with the land. It was also proposed to exempt from the operation of this cess all municipal towns, because, under the Acts which constitute these municipalities, they had to provide funds for the maintenance and repair of roads within their respective limits; and as the general community used those roads without themselves contributing to them, municipalities had a fair claim to use the roads of the general community without paying for their maintenance. Municipalities, then, would be exempted, as also all connected with the land who paid a cess under the second part, and the proprietors of mines, quarries, and railways, who paid under the third part. It was also proposed, to meet the case of the indigent, that no house the value of which was under one hundred rupees, should pay the rate, except in the case of persons carrying on trades and professions. By these exemptions, the house tax would be limited to very small proportions; but he thought that so far from this being an objection to the Bill, it would be a gain, because as long as those that were exempted paid under another part of the Bill, we should avoid a rather troublesome procedure which must be enforced wherever the house tax was introduced. Where there might be any local bodies,

such as a punchayet under the Chowkeedaree Act, it was proposed to make over to them the assessment and collection of the cess, so as to follow, as far as possible, the desire of the Secretary of State, that the assessment should be made by the parties themselves who had to provide the funds; but in those places where there were no such bodies, special assessors must of necessity be provided for.

We now come to the last and one of the most important parts of the Bill, which was the constitution of the local bodies. It was proposed to constitute in each district a district road committee, of whom two-thirds must be persons unconnected with the Government. These would ordinarily be appointed by the Lieutenant-Governor, but power would be taken under the Bill to provide for the election of members in special cases where it might be considered expedient to follow that plan. The functions of these committees would be important. It would rest with them to determine what works were to be undertaken for the benefit of the district; and if the statement given by the committee of such works be carried by three-fourths of their number, Government would have no power to interfere. It was only where the statement was carried by a less majority that the Government could cause alterations to be made in the estimate. The district committee would further have to determine the rate on which the cess should be levied. The Cess Committee in their report had fixed the maximum of the rate at one-third of an anna on each rupee of the annual value of the property to be taxed. But it was now proposed to raise that maximum to one-half of an anna; and the reason for doing so was, because the Cess Committee, in their calculations upon which they based the sufficiency of the maximum of one-third of an anna, had forgotten a very important element in the calculation. They found that the requirements of the Government might be taken at about thirty lakhs, and they considered that, taking the gross rental of the country at twelve crores, a rate of one-third of one anna on the rupee, supplemented by the rate from the house tax, and certain contributions from Government, would give thirty-seven lakhs, and they therefore fixed the rate at that amount. They forgot, however, that the application of these funds was purely local, and confined to the districts in which they were raised. It would often happen that one district might require a rating of more than one-third of an anna, and another one, being altogether better provided with communications, the rate in it might be fixed at a less amount; and consequently the total sum that would be raised by the cess would be less than the total sum that would be required for the country generally. It was therefore proposed that the maximum amount of the cess should be raised to one-half anna. It would, however, rest with the road committee at what amount to fix that rate, whether to go up to the maximum rate or not, as they might think fit.

In addition to the district committees, power was given to appoint sub-divisional committees: their duties would be in immediate subordination to the central committee, and to advise the latter as to their wants and requirements.

Lastly, he might mention that the valuation upon which the cess would be calculated would extend over a period of not less than five years. It was thought very desirable not to have too frequent valuations, and it was hoped by this provision to avoid unnecessary harassment to the people.

The purposes to which the funds can be applied are distinctly stated in the Act itself, as the maintenance and construction of roads, and the improvement of rivers, khalls, and canals, provided the latter were not works constructed purely for purposes of irrigation, the cost of which had hitherto fallen on the imperial funds. It was provided that the amount assessed in any one district must be expended in that district, except where the district road committee might think it advisable to assist a neighbouring district by the allotment of funds for the maintenance and construction of works which would be of common utility to both, and even in such cases no allotment could be made except with the sanction of the Government.

He thought he had now explained most of the important provisions of the Bill. He might mention that he had been requested to bring it forward, because, as president of the Cess

Committee, he had had the advantage of knowing the circumstances under which these proceedings had been initiated, and the reasons which guided that committee in preparing their draft. He thought that the Bill, as now prepared, did in a great measure meet the requirements of the Secretary of State, and certainly conferred on the people a very large degree of self-government for managing their own affairs. Having said this much in favour of the Bill, he could not but admit that it was open to much discussion and probably many objections. The first and foremost objection might be that by levying a tax upon land, the Bill violated the pledges of the permanent settlement. The extent and effect of the permanent settlement was a question which had been frequently discussed, and very lately at great length in another place. He would not now take up the time of the Council any longer on this point, but he would only say this, that he held that the permanent settlement clearly and distinctly defined the right and title of the zemindar in relation to the Government, and had, on the other hand, bound the Government not to increase their demands for land revenue, but that it in no way freed the zemindar from sharing the burdens of such taxation as might be imposed on them in common with the general community. These views, no doubt, would not meet the approbation of those who claimed exemption from taxation under that settlement, and who must more or less be biassed by their interests in the views they might adopt in regard to the extent of that settlement; and as they formed a very large party, he thought it was to be regretted that it had become necessary to assume a form of taxation which mixed up the question of taxation very much with the land revenue; but as long as immovable property was made the subject of such taxation, he did not see how this could well be avoided. For his own part, in a paper he had written in connection with this subject, he had advocated the adoption of an increase of the salt duties, rather than the imposition of this form of taxation, because such an increase would give to the Government what it wants without oppressing the people, and without, in fact, their feeling that they were taxed at all. But since he had written that paper, His Honor the President had laid before us a statement of the local finances, and he thought that no one who had seen that statement could not but feel fully convinced that it would not be long before we should be required to advise the Government, not only on the question of local taxation, but also on the question of provincial taxation. His Honor had followed the wise course of incurring no expenditure beyond the funds at his disposal by adopting the simple plan, as he had stated, of "cutting the coat according to the cloth." But from the spirit of material improvement and extension of education in Bengal, the requirements of the province were becoming so extensive that the funds at the disposal of Government would not enable the Government to do that justice to the people that ought to be done. If it should be necessary to have recourse to provincial taxation, he believed that an increase in the salt duty only would prove the most suitable for that purpose, and therefore, it must be held in reserve. For local purposes we must have recourse to local means; and although this Bill was far from being all that he should wish it to be, he trusted that it would be found, in the absence of any better measure, fairly adapted to serve the purpose for which it was designed. He trusted that in its progress through committee it would receive grave consideration, and come back to the Council in an improved form; and he hoped specially, that the provision of the Bill making arrears of the cess recoverable as arrears of revenue, might be eliminated, and that the Bill would be re-presented to the Council in a form which would render it acceptable as a good, working, practical measure.

Baboo Digumber Mitter said, the statement of objects and reasons did not, to his thinking, sufficiently make out the necessity for the present measure. One could not avoid inferring from it that the imposition of a local cess had been deemed necessary not so much for the purpose of keeping intact the existing means of communication, whether by roads or water, as of effecting improvements upon them. He did not for a moment question the desirableness of some improvement in that direction, but he certainly did think that it was not a crying want—not such as should be met by the imposition of a new tax, at any rate in

Lower Bengal, where we had a net-work of khalls and rivers affording every facility for locomotion and transport at a much cheaper cost than by roads. In fact, roads in Lower Bengal had in many instances been known to have caused more harm than good, by impeding the surface drainage of the country, and thereby contributing to the generation of miasmatic fevers which, it might not be unknown to His Honor, had been epidemically raging in different parts of the Hooghly and Burdwan districts ever since something like a *furor* had set in for roads, consequent upon the introduction of railways. He thought that in dealing with this matter of roads you might with good reason, and without retarding the material development of the country, adopt the same policy which you had so wisely adopted in respect of some of the provincial services, viz. cutting your coat according to your cloth. Improvements were very good in their way, but they were not more pressing in this department than in others, and he should be afraid to admit that as a sufficient plea for introducing novel and harrassing schemes of taxation. In fact, if such a plea were to hold good, there would be no limit to taxation, as there could be no limit to schemes of improvement in these days of railways and electricity, however contrary to expectation those so-called improvements might very often turn out in their actual results. With due deference to the hon'ble mover of the Bill, he must say that he could not admit as sufficient the grounds on which he sought to introduce this measure of taxation, though he felt quite confident, from His Honor's known repugnance to burden the country with additional taxes, that even if this Bill passed into law, it would not be enforced except upon absolute necessity.

As regards the main principle involved in the proposed measure, viz. the liability or otherwise of the lands in the permanently settled estates in Bengal to additional taxation, the question having been already disposed of in the affirmative by the highest executive authority, this Council, he supposed, had no other alternative than to carry out that order in all its integrity. He would therefore refrain from making any observations on that point. But it appeared to him to be rather strange that almost the only ground on which the Secretary of State justified this additional imposition on land should have been entirely lost sight of in the framing of this Bill. On referring to His Grace's despatch on this subject, dated 12th May 1870, he found it repeatedly stated, that to justify an additional cess on land, the same must be imposed alike on all property accessible to the rate. The words of the despatch were (para. 11)—

"The best method of making this distinction, and of making it clear, is to provide that such cesses should be laid upon the owners of land only in common with other owners of property which is of a kind to be accessible to the rate."

Again (para. 17)—

"And that when such rates are levied at all, they ought, as far as may be possible, to be levied equally, without distinction and without exemption, upon all the holders of property accessible to the rate."

And yet, notwithstanding this indispensable condition attached to the levy of a cess on land, and insisted upon in the despatch, and notwithstanding the interpretation put upon this part of the despatch by His Excellency the Viceroy in Council, as meaning that the rate should be levied upon all property, both real and personal, the Bill in question had exempted all personal property from taxation, thus throwing an additional burden on land. The only explanation offered in the statement of objects and reasons for the exemption was the bare affirmation "that immovable property of all kinds had been generally considered as justly accessible to a road rate."

If, for purposes of a road cess, it should be deemed necessary to impose an income tax, he did not see any reason why such a tax should be confined to land alone. It should be borne in mind that in the despatch he had just referred to, a cess on land for roads was justified precisely on the same ground as that for education; and if personalty was entitled to exemption in the one case, it must be so in the other: and yet it was not to be for a moment

contended that the landholders were more interested in the moral elevation of the cou proceed- than the fund-holders or the merchants. Again, the despatch said (paragraph 20)— ir draft.

"I observe that you contemplate the extension of the cess to towns and villages. There is indeed of the reason why the burden either of roads or of education should be thrown exclusively upon the agricultura classes, when other classes are equally interested in the expenditure, and have property of a kind which ern- can be made accessible to rates." ould

And yet the towns were exempted from local rating, because they contributed to municipal rates, though the townspeople were quite as equally interested in the district roads as any one living out of town could be.

His next and last objection to the Bill on grounds of principle was, that it had not kept clearly in view the purposes and objects of local taxation. On this point the words of the despatch were (paragraph 22)—

"For this purpose it is above all things requisite that the benefits to be derived from the rates should be brought home to their doors.—that these benefits should be palpable, direct, immediate"

Now, was it to be for a moment supposed that an agency working at a distance of it, might be from 40 to 50 miles from many parts of the district, would be able to bring home to the doors of the rate-payers the benefits to be derived from the rates, and make those benefits palpable, direct, and immediate? The requirements of the different parts of a district might be totally different. What was to ensure that the different requirements of the distant parts would be attended to and satisfied unless the parties directly interested in those benefits had a share in the management of the funds? The appointment of sub-divisional committees provided in the Bill, with power to offer suggestions, would for all practical purposes go a little way, he was afraid, to supply this want. Again, it was not to be denied that there were various parts in a district, and embracing, too, large tracts of country where roads were not wanted, and where water communication might not require any improvement, and yet, under the scheme of taxation recommended in the Bill, those parts would go on contributing to the road cess without ever reaping any benefits from it. This surely was not bringing home to the doors of the rate-payers the benefits to be derived from the rates, nor were any benefits conferred upon them which were palpable, direct, and immediate, for the sums they had been punctually and, it may be, monthly contributing The fact of the matter was, that a district in Bengal was much too large to be adopted as a unit for purposes of local rating, and you would scarcely be carrying out the instructions of the Secretary of State, or your own doctrine of local taxation, by adopting the scheme contained in the Bill. It might be said that the scheme in question was precisely the same that had been recommended by the Cess Committee of which he was a member. His reply to that was that neither himself nor any member of the committee clearly apprehended at the time the distinction to be observed between a local, provincial, and an imperial tax, as the same had been brought home to us of late by the repeated discussions on the subject, and by His Honor's own exposition of the principles which should govern each. On these grounds he would move that the Bill in its present form should not be permitted to be read in Council.

RAJAH JOTEENDRO MOHUN TAGORE said that the question of imposing a cess on the permanently settled lands of Bengal had been almost discussed threadbare. Eminent lawyers, like Sir Erskine Perry and Sir Barnes Peacock had given their decided opinion as to the legal bearing of the question; and statesmen of wide Indian experience had also clearly recorded their views on the subject, as we see from the education blue book lately published. He had nothing new to add, and he would not attempt to hold his "farthing rushlight to the sun." It had been said that the Government had no intention whatever of breaking the stipulations of the permanent settlement, and a distinction had been attempted to be drawn between land revenue and land tax. He confessed that to the natives it seemed to be a distinction without a difference; for so long as the demand was upon the land, and was to be recoverable as arrears of revenue, it mattered not under what name that demand was to

Lowade; and so long as the landholders found that it took away so much of the profits the tionyment of which had been solemnly guaranteed to them, they could not but look upon in demand as an infringement of the promise made to them by Lord Cornwallis, and ratified by the British parliament. Besides, the cess, the rate of which was to be gradually increased for other purposes, as it appears from one of the despatches of the India Government to the Secretary of State, was as much an addition to the "public assessment" permanently fixed, as any enhancement of the land revenue could be, for virtually the effect would be the same. It would be poor consolation to the zemindars to know that it was a cess and not an enhancement of land revenue they were called upon to pay, when the fixity of the public demand on their lands would be in either way equally destroyed. He perfectly agreed with the hon'ble member on his right (Baboo Digumber Mitter) as to the injustice of singling out land for the purpose of taxation. He could not understand why holders of other than immovable property, who benefited equally from the construction of roads, should not be made to contribute their share of the burden. It was said that there was great difficulty in reaching other kinds of property; but, he submitted, was that difficulty any reason for doing injustice to any one class of property holders? Then it must be known that landholders who had sub-let their estates permanently, and had reduced themselves to the position of mere annuitants, or those who had purchased the *malikana* of *putnee talooks* by way of investment of their capital, would derive no benefit whatever from the improvement of the land. While such persons were to be included in the operation of the proposed tax, he did not see why fund-holders should not be made to pay.

It was said also that in England the land bore the whole burden of such taxation; but the fact was overlooked that in England land did not bear any other share of the revenue except these rates and taxes. But the case was quite different in India. Here we had already a heavy land revenue to pay. It struck him as somewhat singular that an analogy should be instituted between England and India when a tax was to be imposed; but when the people asked for a share in the government of the country, we were told that India was not England; and yet poor India was to be considered as England for purposes of taxation. It could not be denied that India was a country peculiarly unfitted for any kind of direct taxation. The fact that the Government had been obliged to raise the limit of taxable incomes from Rs. 500 to Rs. 750, in order to prevent the oppression of the poor, went to prove a great deal. Now this cess, it must be remembered, would reach incomes of the lowest grade, even down to those of the cultivating ryots, and the amount of oppression that was likely to take place could very well be imagined. He thought it would not mend matters by importing the agency of the zemindar to collect the rate, for the zemindars themselves had to employ gomashtas to collect their own rents, and the work of collecting the cess would of necessity be entrusted to these gomashtas. It was well known that for the sins of omission and commission of their *amlahs* the zemindars had already much to answer; and would it be any safeguard against oppression if these men were employed to collect the rate? He thought not.

But we knew that the Secretary of State had already given his decision on the question of the proposed cess, and it was not for him (Rajah Jotcendro Mohun Tagore) to hamper the proceedings of the local Government by raising factious opposition. He would take the liberty, however, of saying that as the landholders of Bengal had sent up a petition to parliament embodying their grievances, and as he did not see any such emergency which called for immediate legislation upon this subject, he thought it would be an act of grace on the part of the Government if they would defer the consideration of this measure until the final decision of the highest tribunal was known. He thought such a course the more desirable, as, if the decision of parliament should be against the zemindars, it would set at rest for ever all questions as to the principles of this measure; and if that decision should be in favour of the zemindar, as he hoped it would be, he thought that the debates and

discussions which would be necessary to carry the Bill through the Council would the proceed-
found to have been so much labour lost. draft.
of the

Under these circumstances he thought it his duty to support his hon'ble friend, Ba ern-
Digumber Mitter. uld

Mr. Rivers Thompson said, he ventured to ask precedence of the hon'ble member opposite who had risen to speak (Moulvie Abdool Luteef), as he wished to have an early opportunity of making some remarks on this important Bill, because he had taken some part in the long correspondence which had passed upon the subject, and because, more recently, he had been associated with many able and experienced officers in the committee which was appointed to report on the question of local taxation. He wished also to offer some observations on the addresses which had just been made to the Council by the hon'ble members on his right. The hon'ble member who last spoke had strongly urged the desirability of a postponement of the consideration of this Bill in the present Council, on the ground that a large portion of the native community especially interested in the principle said to be involved in the measure now under consideration had petitioned parliament on the subject of the orders of Her Majesty's Secretary of State, and pending an authoritative decision upon the question raised, it would be premature, in his opinion, to proceed with legislation on the subject here.

Now, considering the very large interests involved, and the necessity which the Government had recognised of the fullest discussion of its proposals, he should be the last person who would object to any postponement which those who desired information on the Bill, or time for consideration, might reasonably suggest. It had been urged, and it was supposed by one of the last speakers, that discussion on the principle of this measure was precluded by the definite orders received on it from England. He (Mr. Thompson) was not sure that such an opinion could be accepted, and for his own part he might say that he was quite prepared to take his stand with those who, in a question of this kind, in which a very important principle was involved, neither recognized the finality of the views expressed by the Secretary of State in his despatch, nor the orders issued by the Government upon it. For the independence of the Council, it might be fairly asserted that we do not all stand here in the position of Government servants, and, as a matter of fact, there were many members in the Council who, holding no official appointments, might rightly consider themselves perfectly free to examine each measure submitted fortheir consideration entirely on its merits, independent of the opinions of the highest authority. Admitting all this—that the hon'ble member had the right to claim the most complete discussion on the principle and details of the Bill—that if he could make out a case for it, the Council would be right in allowing delay for further information or further inquiry—he did not see the soundness of the argument, that because a petition had been preferred for the interference of parliament, that which for good reasons has been so long under consideration in this country, should now be postponed till the petition referred to had been disposed of. The rapid communication which now happily obtained between India and England resulted in an increasing number of references home from parties aggrieved by the decision of the Government in this country. If in all such cases the action of the Government was to be stayed pending the disposal of the appeal to the home authorities, a great deal of embarrassment and confusion would ensue. The concession of the hon'ble native member's proposal would establish a very unsatisfactory precedent. It was possible, though he must say he thought it was very improbable, that the course which the hon'ble member represented to have been taken in this matter would result in altering the decision which had been arrived at as regards the justice and equity of the form of taxation which was embodied in this Bill; and this, he thought, might be added, that if the decision of parliament should accord with the hon'ble member's views, and should set aside, as inequitable and impracticable, the imposition of rates on immovable property, including land for local purposes, it would reach this country soon enough to render inoperative any active

measures which could be taken by Government, should this Bill become law. He thought, therefore, the Council would be quite justified in not acceding to any suggestion for further delay.

And now to refer to the exception which had been taken to the principle of this Bill, on the ground that the Government was violating the pledge which was given by Lord Cornwallis in 1793, and which was embodied in the Acts of the legislature of that period, as regards the permanency of the settlement then made with the zemindars. Though much had been spoken and written upon this subject, this was the first occasion in which this Council had been brought face to face with the difficulty, and if the Council is now to come to a discussion of the character and conditions of the permanent settlement, it is fortunate in finding that the question had been most fully examined and argued in the speech recently delivered by the learned law member of the Supreme Council of India, in the debate which took place upon the local rating bill of the North-Western Provinces. It appeared to him (MR. THOMPSON) that as an exhaustive exposition of the circumstances which preceded and established the permanent settlement, and of the obligations and liabilities of the zemindars which the carrying out of the permanent settlement in no way affected, the speech which he referred to left nothing to be desired. It would be waste of time to attempt to repeat, and the subject-matter would only suffer by repetition in his hands, the conclusions which full inquiry, both in official correspondence and in non-official papers, had definitely established,—first, that there was not the slightest intention on the part of Government to attempt, or to allow any kind of infringement of the permanent settlement, as they understood its provisions; and secondly, that the imposition of a rate upon immovable property, such as this Bill contemplates, in which the incidence of the tax was general, and by which the cess was indiscriminately levied from all classes accessible to the rate, was in no sense a violation of the good faith of the Government.

It was to this aspect of the question that he would confine his remarks, because it was a question which had passed through many phases, and the position which it now held as presented to the Council in this Bill, differed, in his opinion, altogether from the position in which it was presented to the Government of Bengal for adoption in the early consideration of the measure. If the members of the Council would bear with him, he would attempt briefly to review the stages by which we had reached our present position.

The first occasion on which, as far as he could trace, the question of a local cess for local purposes was at all mooted, was in connection with the subject of the educational expenditure and the educational policy of the Government of India. In the first aspect of the question there was no reference at all to roads. As regards education, to which in the first instance it was alone restricted, the discussion arose in this wise. It might be in the knowledge of the Council that a system of primary vernacular education had been established in these provinces, which as regards its origin dated as far back as the government of Sir John Peter Grant. It was known generally as the patshala system. It would be beside the question to explain in detail the objects and scope of the system beyond stating that it contemplated an elementary education by village schools in Bengal, and that the results of the measure had exceeded all expectations, and was gradually extending throughout these provinces. The expenditure of course increased with the increase and extension of the schools, and when the special allotment in the budget for patshalas was insufficient to meet all the requirements of the system, the local Government authorized the appropriation of savings from the general grant for carrying out the system of primary education, which was working healthily and satisfactorily. The Government of India objected to this procedure. This was in March 1868. Previously, in October 1867, similar exception had been taken, and in view of the increasing expenditure and the want of imperial funds to meet them, it was declared to be the opinion of the Governor General in Council that the main burden of vernacular education in Bengal should fall, not on the imperial revenues, but, as elsewhere, *on the proprietors of land.*

It was suggested that a voluntary cess might be considered, and that the zemindars of this province should be invited to accept the charge for primary education; but the idea was no sooner suggested than it was scouted as utterly impracticable, and not only was the idea scouted, but a very strong opinion was expressed that the voluntary system, as it was called in other places, was voluntary only in name. On the abandonment of the idea of a voluntary cess, as unsuited to the circumstances of the country, it was suggested that legislation should be resorted to, and it was intimated that a cess of two per cent. upon the imperial revenue or sudder jumma would be fair and practicable. So far, then, the cess originally proposed by the Government of India was for the purpose of education only, and it was proposed to be levied on the land proprietors only, and on them at a percentage on the sudder jumma. Clearly it seemed to him that such a proposition was unjustifiable and indefensible. Six months afterwards the instructions of the Government of India were considerably modified. The method of rating by a cess of two per cent. upon the sudder jumma of zemindars was abandoned, as it would (to use the words of the letter of the Government of India), "in the "eyes of those who were not well acquainted with the true state of the case, have very much the "appearance of an enhancement of the assessment imposed upon the land at the permanent "settlement;" and it was considered also that the incidence of the rate would be unjust, "as in Bengal the Government revenue had ceased to be any index whatever to the actual annual value of the estates." In plain words, the plan of levying the cess *on the sudder jumma of estates* would have all the demerits of an infraction of the permanent settlement, and it was not considered worth while to impose it, as on that mode of rating the cess would yield but a very small return.

With the abandonment of that proposition it was pressed on the consideration of the Government of Bengal that the Governor General in Council was of opinion that, taking into consideration the great urgency of the subject in view, and the wealth of the classes on whom the tax would fall, the amount to be levied should not be less than a cess of two per cent. of the gross annual value of the land.

Thus far, then, the scheme was still one of exclusive taxation on the landed proprietary, and the tax was to be at the rate of two per cent. on the gross rental received by the zemindars and others under direct engagement with the Government. And it was on this occasion that it was first ordered that the rate should be calculated with a view to including in it something for the maintenance and construction of roads in addition to the requirements of education.

Lengthened inquiries were then made, and all Government officers who from their position were likely to give valuable informations were consulted in the matter, and a body of opinion was recorded which enabled the Government of Bengal to represent again to the Government of India the official and non-official feelings on the subject. Generally, he might say that the opinions received were opposed to the imposition of a special tax on landholders in any form whatever. An able officer of the Government, who was now Secretary to the Government of India in the Financial Department, recorded his strong opinion that "he was unable to conceive on what grounds the cost of primary secular education was to be laid upon the proprietors of the land;" and he went on to urge that the tax would be unjust in its incidence, and that it was a mistake to impose taxation of this kind exclusively on landholders on the supposition that they were a wealthy class. The hands of the Government were thus very much strengthened by the valuable reports received from their local officers; and upon this the famous letter of Sir William Grey of the 30th April 1869 was written, in which, reviewing the whole question from beginning to end, a remonstrance was urged against the proposal of such exclusive and special legislation upon a special class, and that a class of landed proprietors who claimed privileges and exemptions upon the solemn pledge of the British Government. The answer to that letter was the despatch of the Secretary of State, which was the basis of the measure now before the Council. It seemed to him that the intention of that despatch, read in the light of the dissents which were recorded against it in the Council at

home, came to this—that it acceded to the views of this Government that, irrespective of the promises of the permanent settlement, to levy rates and cesses solely upon the zemindars was unjust. This general principle was however maintained by the Secretary of State, that, given property accessible to the rate, and understanding that all who were interested in that property were made liable to the rate in proportion to their interests, there was nothing in the permanent settlement which excluded land from its liability in common with other like property from the operation of the rate, and he did not think the hon'ble member on his left could object to such a conclusion. It had been attempted in the Bill which was now presented to the Council to meet the requirements of the case as far as they could be met. The Bill proposed a tax not only upon landholders, but upon the owners of all immovable property: it therefore extended to other forms of real property besides land; and if any hon'ble member could suggest any further property which could properly be made liable, he had no doubt that the suggestion would receive the most careful consideration. He did not think any one could reasonably object to this. All immovable property was made liable to the road cess, and to the road cess alone. It had justly been held by His Honor that if the requirements of education in these provinces, or the exigencies of the Government, demanded that there should be another call in the form of taxation for educational purposes, such taxation should be imposed, not as was at one time suggested, "by the mere addition to the rate of this cess," but that the question should be separately and independently considered, solely upon its own merits.

The Bill before the Council seemed to him to be a great improvement in this respect over the Bill recently passed in the North-Western Provinces for the imposition of a local rate. There the funds raised under the Bill were to be appropriated to meet the deficiency in the provincial services, and it was not exclusively confined to one object of a local character, but extended to education, sanitation, police, and other purposes. Here the cess was confined to one local object, and the funds to be raised under the Bill would be raised and administered by local bodies. He thought the principle was right, that on the first introduction of the measure the members who should compose those local bodies should, after communication with the local authorities, be selected and appointed by the Government, and that these local bodies should be assisted by sub-divisional committees in carrying out schemes of local improvements.

He would conclude by observing that the decentralization scheme which had recently been introduced placed upon the local Government larger responsibilities and duties. By it the Bengal Government was brought into a generous competition with other Governments as regards all matters which affected the material progress of the country. It would be a great misfortune if Bengal, which could put forward a claim to some precedence, should show any hesitation in a question like this, which concerned so vitally its own interests. He believed it was one of the members of the British Indian Association who had recently said that the province of Bengal possessed the richest soil, the largest population, and the most peaceful subjects of Her Majesty in Asia. A race enjoying such a position and such natural advantages should not be backward in contributing to the development of its own resources. The hon'ble member (Baboo Digumber Mitter) had already given the Government much valuable assistance in preparing the measure now under consideration. He (MR. THOMPSON) was sure that he would not withhold his further aid in maturing and completing the Bill, and perhaps he would be the first to admit in common with others who are now in opposition, if some ten years hence the objects of the Bill are fully realized, that the increase and extension of district roads and communications had added to the prosperity and wealth of his large estates.

MOULVIE ABDOOL LUTEEF said, he thought it to be his duty to support this Bill, not solely because, as a servant of Government, it might be presumed to be his duty to vote on the side of authority.

"Looking, however, to the circumstances under which the measure had come up, not by any means for discussion, but for resolution into practicable shape and a workable organization, he did not see what could be left to any man, whether in or out of office to do, but to throw

the weight of all his information and intelligence on the side of the local Government, so that we might have not a weak, immature thing, born of opposition, and made up of jarring, ill-assorted elements, but a harmonious and consistent and compact piece of legislative art, built upon accurate knowledge and amicable intention.

It needs only to be remembered that the principle of the Bill had been considered elsewhere, and the hon'ble members of this Council were charged with the task of giving effect to it in the manner least likely to be obnoxious to the classes of the population which were to be affected by it.

It was in this spirit that he conceived we were bound to aid the local Government in rendering the bitter pill of fresh taxation as palatable as possible, which could only be done by our agreeing to bring together all the special knowledge which each of us may have acquired in his line of life, and which may be utilized at this moment, for the common advantage of the people

It was in this spirit that he ventured to offer a few suggestions which, if they commended themselves to his hon'ble colleagues, might be made the basis of a few amendments in the Bill before the Council.

The incidence of the cess, as the Bill now stood, was made to affect all holdings alike. In his opinion, some exceptions seemed to be called for on behalf of ryots of the lowest class, who had hitherto been exempt from taxation of any kind whatever.

In this view he would exempt koorfa ryots who cultivated for others; also ryots whose holdings did not pay more than Rs. 50 per annum to the zemindar.

It was admitted on all hands that there must be a limit to taxation, and that in going down the scale of incomes to be brought within the collector's shears, we must avoid those classes whose means of subsistence would be endangered if they were subjected to taxation, however light.

He thought the classes he had indicated were in this condition, and that we ventured upon dangerous ground if we touched classes whose only property was the labour of their hands, and whose existence was bare toil from year's end to year's end.

He also thought that, in accordance with the principle which had regulated the proceedings of the State on other occasions, lands belonging to mosques and temples should be exempted from the cess.

It was true that these were points which might well be left to be settled in committee, but that was no reason why he should not beg permission of the Council to express here the opinions which he happened to have formed on the subject.

With one more suggestion he should conclude. The Bill required every zemindar and holder of any tenure to lodge, at the collector's office, a return of all lands comprised in his estate in the form in schedule A, part IV of which, as far as he was able to make out, appeared to relate to lakhiraj lands.

These were not exempt from the local cess, and the zemindar or tenure-holder had to pay in respect of these lands as in respect of his own, recovering the same from the lakhirajdars, with a fixed remuneration for the trouble of collecting the cess from them.

Now, it was well known that from time immemorial there had been a constant struggle going on between the zemindars and the holders of lakhiraj lands in Bengal, and the Bill gave the former the very opportunity which they wanted for interfering with lakhiraj estates.

There was no doubt that a great deal of advantage would be taken of this provision, and that endless disputes and endless litigation would be the result of this provision.

He was of opinion that some provision should be made for the collection of the cess from them without the interposition of the zemindar.

With these exceptions he gave his vote for the introduction of the Bill.

MR. BERNARD said he would not trespass on the time of the Council with any remarks on the details of the Bill which has been so lucidly presented to the Council by the hon'ble

member for the Board of Revenue. The details of such a measure must indeed be supremely important; but the present Bill was framed after much discussion by a body of Native and European gentlemen, who knew the peculiar circumstances of the province for which this Council legislates. If the Bill should pass the first reading to-day, it will be committed to select members of this Council who will scrutinize all its details.

He would not trouble the Council with any remarks on the bearing of the permanent settlement on the principle of the Bill. The Secretary of State and the legal member of the Supreme Council had fully explained that land held under a permanent assessment of the land revenue was liable, along with other property, to assessment and to special taxation for local purposes. The hon'ble member opposite had discussed this point with impartiality; he admitted that the taxation proposed by the present Bill was just and fair; and yet we must all have seen that he had a deep sympathy with the zemindars' side of the question.

He trusted that the land-holding classes of Bengal would accept the principle of this Bill with such loyal readiness as they might have to show; and that the zemindars, their representatives, and their organs, would aid the supporters of the Bill in improving its details. If an outsider might be allowed to offer counsel on such a matter, he strongly advised that the zemindars should accept this instalment of extra taxation which touched them in common with other property holders, and which provided for spending on the improvement of their properties all the money which might be raised. From an outsider's point of view they certainly would be wise to acquiesce. If the Bengal provinces were governed by a representative body from all India—that is, from the nations whose soldiers and revenue protected the people of Bengal—if the Government were indeed such a representative Government, it would never tolerate that Bengal estates should be improved and opened out by expenditure from the surplus revenues of less favored provinces. If the principle of the present Bill were to be wrecked by any opposition within this Council, or without its walls, the result must certainly be that some far stronger measure must force itself on the legislature a few years hence. The Indian Government indeed was not a representative Government, and it therefore must hesitate at reforms which a popular assembly would assuredly introduce. But after all no Indian Government and no Indian legislature could afford to be much behind intelligent public opinion; perhaps it ought to be at least abreast of such opinion, and it could hardly be denied that the majority of educated Natives and Europeans in India hold very strongly that if roads were wanted in the interior of Bengal, such roads must be made and maintained at the cost of the people of Bengal.

If roads were wanted;—but perhaps it might be said that the rivers and back-waters of Eastern Bengal sufficed for her wants; and that the funds already available would suffice to keep up a decent system of roads over the rest of the country. He would submit that so far official papers, to which he had had access, shewed such had not been the opinion of the people who knew Bengal best. The most honored of our governors, Sir John Grant, inaugurated the present scheme of road-making in Bengal. He seemed to have held that the districts of Bengal were terribly in want of roads. He (Mr. Bernard) held now in his hand a paper drawn up by Mr. F. Boyce, who perhaps knew the public works literature of Bengal as well as any man now living. This note shewed that 16,000 miles of road had been begun in Bengal, and that out of these 16,000 miles 1,300 only have been completed. He considered that 80 lakhs a year might be spent on road work alone; and he puts 50 lakhs a year as the least which ought to be spent if the road system now begun was to be completed within the next twenty years. He shewed that 40 lakhs a year was spent on Bengal roads from 1861 to 1867; in one year, 1864, as much as 53 lakhs were so spent, and from 1867 to 1869, 34 lakhs were spent on roads yearly. These large sums came partly from the imperial treasury, partly from Mr. Wilson's one per cent. income tax fund, and partly from local funds.

All this money was spent on roads alone. Barely 3 or 4 lakhs a year were spent on the canals and rivers of Eastern Bengal. Yet no one could study the early ferry fund literature

of Bengal without seeing that their rivers, their canals, and their back-waters, were the highways of the deltaic and revenue districts. From the time of Henckell, whom Mr. Westland had unearthed for us, down to the present day, all the collectors who knew their districts well said that in those districts carts were hardly used, and roads were scarcely wanted. But each officer could point to a river which wanted deepening, a canal which wanted clearing, or a khall which wanted opening. Mr. Westland's interesting book brought out very strongly a phenomenon, the question of maintaining our water highways, more important than ever. He shewed that the land of the deltaic country was everywhere rising; that rivers which used formerly to be navigable had silted up or had become swamps. He (MR. BERNARD) thought he might presume that this process would continue unless some great change intervened. But during the next twenty years much might be done to control and bend the forces of nature, and to keep the rivers and khalls deep while the land rose around them. Such undertakings would require constant yearly expenditure. But the importance of such a work could hardly be overrated in a country where every ryot had his canoe instead of his cart, where a petty dealer had his home, and did his peddling on board his boat, and where the large dealers came with ships and barges to take away surplus produce to our great seaports.

But besides deepening the rivers and khalls, there might be much to be done in improving the landing places at the chief marts. Mr. Westland told us of the Chandkhali Bazar, where thousands of boats laiden with produce jostled each other in the river every weekly market day. A small outlay at the landing places and river shore would give great convenience to the frequenters of such marts.

Thus, then, we had an estimated requirement of 50 lakhs a year for roads, and we had a need for large annual outlays on the water highways of the delta districts. The Council would perhaps wish to know what funds the Government had to meet these demands. There were about 15 lakhs from the imperial assignment shown in the statement which His Honor the President laid on the table at the last meeting of this Council, and there were about 10 lakhs of gross receipts from ferry tolls and canal tolls. Surely this total of 25 lakhs was enormously insufficient for the construction and maintenance of communications all over Bengal. The Bill now presented to Council, if it became law, and if it worked well, might perhaps eventually yield 30 or 32 lakhs a year. There would thus be at the disposal of Government and of local bodies about 50 lakhs a year for the improvement of roads and water highways in Bengal.

He thought the Council would consider that half a million sterling was not too much to spend on communications in Bengal with her 220,000 square miles of country and her 50 millions of population. In the absence of any census statistics, he took the population at 50 millions, as being half way between the figure at which the population of Bengal had been set down any time during the last thirty years, and between the figure (60 millions) at which some of the best statisticians of the present day estimated the people of Bengal. The 50 lakhs of expenditure gave us one lakh of road or canal expenditure per annum for each million of the population.

If we looked at other parts of India, we should find that Bombay had 10 lakhs of imperial money, and 40 lakhs of provincial rates and taxes, for roads and other improvements. This gave from 2 to 3 lakhs for each million of the population. In the North-Western Provinces, where the country was already better provided with roads than any part of India, the Government had 47 lakhs for roads and improvements against a population of 28 millions, or 1¾ lakhs for each million. In Madras the funds for roads and other improvements would be at least as high as in the North-Western Provinces, and moreover, Madras (which had been called the benighted presidency) could point to an unrivalled canal system in parts of the delta country. It might seem absurd to compare a rich country like England with Bengal; but it might be well to remember that in England local and municipal bodies spent about 30 millions a year on local purposes, or about one hundred times as much in proportion to the population as the present Bill proposes to raise.

He hoped the Council and the public generally would consider that the framers and supporters of this Bill were not proposing unnecessary burdens on the public when they asked leave to provide 50 lakhs a year for internal communications in Bengal.

But there were thinkers in this Council, and outside these walls, who might perhaps concede that 50 lakhs was no more than was wanted for the purposes in view, but who joined issue as to the best mode of raising the money. They urged that the necessary funds could be very much better raised by an extra tax on salt, which was a cheap commodity, and was used in small quantities by everybody. It was urged that no one would feel a slight addition to the salt tax. Now, he had just come from a part of India where the people and the officials were sighing for the long-hoped-for, long-deferred removal of the inland customs line, and for the reduction of the salt tax. And it seemed strange to him to find a consensus of opinion in favor of raising the salt tax of Bengal, where the duty was already higher than in any part of India. If the Council would bear with him for a few moments, he would submit a very few facts regarding the effect of the Bengal salt tax. He found from the Bombay price current for March, that in Scinde, where the salt tax was merely nominal, the price of salt was Rs. 1-2 a maund; in the littoral districts it sold at from Rs. 1-14 to 2-12 a maund; and the dearest salt in any part of the presidency was at a place far inland, where it sold for Rs. 3-7 a maund. In Madras salt was about as cheap as in Bombay. In Bengal salt was cheapest at Calcutta, where it ranged from Rs. 3-12 to 4 a maund; the average price over the greater part of the province ranged from Rs. 5 to 6 a maund; and in some inland districts the price was between Rs. 7 and 8 the maund. Thus salt was twice as dear all over Bengal as it was in the Bombay presidency; yet wages and the price of produce were higher in the western presidency than they were here. Even in France, where the people were about five times as rich as they were here, the salt duty was only Rs. 1-8 a maund, and it was only in these days of terrible need that the economists of France thought of raising the salt duty up to our Bengal rate.

It seemed as if no impartial thinker could hold that Bengal salt was unduly cheap, or that the best way of raising local rates in Bengal would be to enhance the duty on the salt, which the rice and fish-eating peasant of Bengal required much more largely than his corn-eating brother of the North-Western Provinces.

He could hardly hope that any dictum of his would carry much weight in this Council, more especially when, at a recent meeting of this Council, men of wide experience in Bengal expressed directly opposite opinions. But perhaps the Council would allow him to read a few lines from a valuable report by Mr. W. Pedder, who has recently investigated the facts of the Bombay salt trade and salt duty. Mr. Pedder, when speaking of a discussion which took place in 1861, wrote—

"The Government of Bengal strongly urged the justice of raising the salt tax in other provinces to the "level of that in Bengal. * * * * * * * The Lieutenant-"Governor argued in effect that the salt tax is essentially a poll-tax or a laborer's tax; that differences "between Bombay or Madras and Bengal in respect of the comparative wealth of the commercial or "landed classes do not affect the question; and that the only just reason for taxing the wages higher in "Bengal than in Madras or Bombay would be that they are better off, or that their wages are higher than "in the latter provinces, which (Mr. Pedder here adds) is notoriously not the case." Mr. Pedder goes on to say: "The only reply to this argument appears to be that, in justice to the rest of the empire, Bengal "must somehow substitute something like its share to the imperial treasury, and that if former legislation "in Bengal has alienated the property of the State, or has made it impossible to tax the rich, it becomes "necessary to increase the burden upon the poor."

Now these remarks of Sir J. Grant, and the commentary thereof by a well-informed and intelligent investigator, seemed entitled to much weight at a time when it had been suggested that the Bengal salt tax could be raised even higher than it now is.

He had trespassed so long on the patience of the Council that he would only add a very few words regarding the mode of assessing the rates under this Bill. The chief characteristic

was that the rate-payers were to make their own valuation of their property; that the district committee was to decide yearly the rate of the tax; and that the district committee were to have the fullest control over the expenditure of these rates, so long as they were spent on purely local objects. Perhaps the select committee, if this Bill ever gets to that stage, might devise some provisions for permitting the mode of assessment to vary in accordance with local circumstances, instead of having one hard and fast rule for the fifty-nine districts of Bengal. Probably it would have been simpler if the framers of the Bill had asked the Council to empower the executive government to make rules and regulations on many of the matters for which the Bill provided. But it seemed more loyal to this Council, and fairer to the public, that the Bill should contain a full exposition of the system under which the local rates were to be levied under ordinary circumstances in an ordinary district.

If the Bill ever became law in anything like its present shape, it would secure the immense incidental advantage of a registration of all landed rights in Bengal. The work would indeed be immense, for there would be perhaps as many as five million heads of families holding rights in land, but a registration of this kind must have come some day. And it had never been the practice of servants of the British Crown in India or elsewhere to shrink from a necessary duty merely because such duty was heavy. It would require a long pull, and a strong pull, and a pull all together on the part of the collectors, the sub-divisional officers, and the loyal zemindars, to get the valuation of profits in hand once completed. When this valuation should have been once done, we might hope to see any harsh and punitive clauses, which at the outset might be left in the Bill, expunged entirely from the statute-book.

MR. BAYLEY said, he had hoped that he should not have had to trouble the Council with any remarks on the Bill before them, but he could not pass by in silence the reasons which were put forward by the hon'ble gentleman who moved the rejection of the measure.

He opposed the Bill, first, because he said that roads and communications were not required in Bengal; secondly, that roads produced epidemics; and thirdly, that in these days of steam and electricity, if we once began taxing for such things as roads, there was no knowing where our requirements would stop.

He (Mr. Bayley) must confess he was amazed to hear this statement put forward by his friend opposite. It was not so many years since the Orissa famine which was caused not by the absence of food within reach of Government, but by the absolute impossibility of conveying it to the starving population. He himself had been in the Patna district in 1869, the people near Behar almost starving, with rice scarcely attainable at five or six seers for a rupee, when twenty-five miles off on the line of railway it was selling at fifteen or sixteen seers, and the reason was the same—want of communication. The hon'ble gentleman's experience of the dearth in the Midnapore and 24-Pergunnahs district after the cyclone of 1864, must have taught him the same fact. With all these facts staring him in the face; knowing that one-half of the important roads begun in Bengal had been left unfinished for want of funds; knowing that the main trunk road to Assam could not be finished without an expenditure of lacs of rupees; that the military road along the banks of the Soane remained unbridged and incomplete—a splendid monument of wasted treasure; knowing that along the railway the cry was for feeders; that in Eastern Bengal, while the river on which Dacca stood was silting up—while from the difficulty of navigation caused by the same tendency, the rice boats in the Megna could make use of the channel with great difficulty and under serious obstacles,—knowing that for these reasons the native papers re-echo the daily complaints which were made to Government to assist in opening out the khalls and the natural water communication of Eastern Bengal, he must again say he was astounded at the assertion that Bengal was not in want of roads and communications. Why, in every village in this most productive country, the one thing deficient was not produce, but the means of getting that produce to market.

Not less was he astonished to hear the hon'ble member tell us that epidemics were caused by roads rather than by dirt, and to hear him object to the days of steam and

electricity. Would he wish us to go back to the days when a pleasant voyage of three months brought us to Benares, and when this very petition to parliament, for the result of which the Council had been told they should have deferred the present Bill, could not have been heard of under six months. It was true that we could not fix distinctly the limits of our requirements. It was the nature, the misfortune if you will, of progress that it must proceed; but unless the hon'ble gentleman could persuade us to put the clock back, get rid of steam, and abolish electricity, he would not persuade us that we could do without our roads, or that this Government would be doing its duty to its subjects, relatively to other Governments, if it did not make some provision for a very much more extended supply of roads than was possible with our present resources.

He need not go into the question of the bearing which the permanent settlement had on the principle of this Bill. He had been more than anticipated in this by his hon'ble friend Mr. Thompson, but he would add his warning to that given by the hon'ble gentleman who had just sat down against the endeavour to make the permanent settlement a stalking horse for the resistance of all progressive measures, such as this Bill. It might be a sharp weapon, but it was a two-edged one, and was as likely to injure its friends as its enemies.

The one principle in the Bill which was most obviously open to objection was that which made the estates of zemindars liable for the arrears of the cess by sale as for arrears of revenue. The zemindars might fairly urge that this was no part of their contract; that they never agreed to collect extra cesses from their ryots for the benefit of Government, and that the hypothecation of their estates by the summary process of sale for the arrears of this cess unjustly depreciated the value of their property. He could not altogether deny this, and he was glad when the hon'ble mover said the Government would gladly receive any suggestion which would render it possible to do without this summary proceeding. At the same time he must say he looked upon this method as the only one which could render the Bill a success, and both on grounds of necessity and of expediency he considered the method defensible. It must be remembered that the unit of assessment was the estate. Our settlement was made, not with the ryots, but with the landholders; we always knew where to find an estate, even when we could not find the individual responsible for arrears,—a state of things which was not uncommon when the shareholders of an estate were numbered by hundreds, not one of whom might be entered on the mutation register. Accordingly we levied the cess as a matter of fact on the estate, leaving the landlord to recoup himself by collection from the ryots within the limits which the Bill laid down for the protection of the latter. Then, too, he must say he thought the very severity of the measure was its own remedy. It would never have to be resorted to. He appealed to the Council whether sales for arrears of revenue, which was the only analogous measure, did in these days really press with severity on the landholder. Was it not the case that an estate was rarely brought to sale except when the proprietors, or some of them, desired for their own purposes that it should be brought to sale? He had been struck in going through the sums fetched by estates at these sales to notice how, except in diluviated estates, and such like, bought in by Government, the high prices of the estates sold had conclusively shown that it was not the severity of the sale law that brought them to the hammer. He was satisfied therefore that, while the sale for arrears hung *in terrorem* to make the zemindars conduct the duties imposed by this Bill punctually and quickly, it would not in practice work severely. At the same time, as he said before, he could not get over the fact that the liability must tend to depreciate existing property, and he for one would gladly vote for any amendment which offered a reasonable hope of being able equally certainly to carry out the objects of the Bill.

THE ADVOCATE-GENERAL said, the course that the debate had taken had perhaps rendered it unnecessary that he should say anything on the subjects discussed this morning. He should have abstained from saying anything at all but for the remarks that had fallen from the hon'ble member on his right (Rajah Joteendro Mohun Tagore), to the effect that Sir Barnes Peacock's opinion was in favor of the proposition, that the imposition of a land cess was

an infringement of the conditions of the permanent settlement. As had been said by the hon'ble member to whom he had referred, the subject had been worn threadbare by the repeated discussions that it had undergone in all shapes and forms during the last few years. He (the ADVOCATE-GENERAL) thought that the matter had for all time been definitely set at rest by the exhaustive speech of the hon'ble the legal member of the imperial Council made the other day. But with reference to what had fallen from the hon'ble Rajah, as to the opinion of Sir Barnes Peacock, that he was of opinion that there was some infringement of the permanent settlement in the imposition of an income tax, he (the ADVOCATE-GENERAL) thought it desirable that that erroneous impression should be removed by a reference to what Sir Barnes Peacock actually said in respect to that subject. Now, referring to the debates of the legislative council which took place in 1860, on the subject of the income tax, it would be found in the proceedings of the Council, on the 21st July of that year, that Sir Barnes Peacock, then vice-president of the Council, on the exact question suggested now by the hon'ble member, expressed himself directly in the negative in regard to the proposition. Expressing himself on the subject, he observed on that occasion:—

"Having written a minute some years ago, and it having been intimated to him on a former occasion that his opinion now was different from that expressed in the minute in question, he would take this opportunity of saying that, having referred to the minute, and bestowed upon it careful consideration, he had come to the conclusion that his opinions on both occasions were entirely consistent with each other. As he said before, every minute had reference to the particular subject under discussion at the time it was written. That minute was written on the subject of taxing zemindars for the purpose of maintaining chowkeydars. The latter was an exceptional measure, while the income tax was a general tax affecting the whole country. The question, then, was as to taxing the zemindars alone, and he certainly thought that in so doing the Government would be violating the promise they had made at the time of the permanent settlement. The following was what he said:—

'It is clear that according to the engagement entered into at the time of the permanent settlement, the jumma then fixed cannot be altered. It was declared by the Governor General in Council that the zemindars and other proprietors of land, and their heirs, would be allowed to hold their estates at such assessment for ever (see Regulation I. of 1793, section IV), and that the orders fixing the amount were to be considered irrevocable and not liable to alteration by any persons whom the Court of Directors might appoint to the administration of the affairs of the Company (section VII). At the conclusion of the permanent settlement, the Governor General in Council expressed his confidence that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, would exert themselves in the cultivation of their lands, under the certainty that they would enjoy exclusively the fruits of their own good management and industry, and that no demand would ever be made upon them for an augmentation of the assessment in consequence of the improvement of their estates (Regulation I. of 1793, section VII.) The same principle which prevents an augmentation of the assessment, equally precludes the taxation of the owners in respect of the rent or produce of their estates.'

"That was with reference to a Bill to tax them and them alone, and not with reference to a Bill for taxing the whole community. He could not add anything to the clear and lucid statement of the right hon'ble gentleman. He (the vice-president) would only say that he retained the same opinion now which he expressed on that occasion, namely, that the Government had bound themselves not to raise the jummas of the proprietors of permanently settled estates, as a separate and independent body; but he must add that, having looked into the case carefully, he thought that landholders under the permanent settlement were justly liable to the income tax."

He (the ADVOCATE-GENERAL) thought that that set at rest the question of Sir Barnes Peacock's opinion on the subject of the income tax being an infringement of the permanent settlement; and as the authority of his great name had been used in reference to this controversy, he thought it right that all misapprehensions on the subject should be removed.

He had only one other observation to make, and that was with reference to one of the objections of the other hon'ble member on his right (Baboo Digumber Mitter). It was an objection that he (the ADVOCATE-GENERAL) thought should in some way be met. The course that the debate had taken was that it must be accepted as a principle upon which this Council should now act, that the question of the infringement of the permanent settlement in the imposition of this cess for roads was no longer open on the despatch of the Secretary of State; and

in reference to that, the hon'ble member had said that he considered that the Bill did not carry out the instructions of the Secretary of State in their entirety, because the Secretary of State said that if a rate were levied at all, it ought to be levied equally, and without distinction or exemption, upon all property accessible to the rate. That had been laid down as the course of legislation that ought to be followed, whereas it had been determined in the present measure to tax only immovable property, and to leave all movable property exempt. It would be seen from the despatch of the Secretary of State that he, as would be natural, left considerable discretion to the Council to fix upon the best method of taxation, and the class of persons to be taxed, laying down only this general principle, that there should be no tax particularly leviable on the zemindar alone.

Then came the question whether the imposition of this rate on the agricultural interests was an infringement of these instructions. He contended that it was nothing of the kind. It was admitted that there must be some discretion in regard to the selection of property accessible to taxation, and it was admitted, further, that it was inconvenient to put a tax upon movable property from the difficulty of getting access to it: the only obvious mode of getting access to movable property being by direct taxation, in the form of either an income or a license tax. As he understood the hon'ble member, he considered this mode of taxation peculiarly unfitted to India, and if so, that seemed to remove the objection to this Bill, on the ground that it did not impose a tax on movable property.

But there was a further reason for taxing immovable property in regard to the subject-matter of this Bill, namely, for roads and communications; that the districts in which these roads were constructed were permanently and primarily benefited by their construction, and therefore ought primarily to pay for the construction of those roads. This was the solid ground upon which it was clear that the land, for the benefit of which roads were constructed, should pay for their construction. Therefore, having regard to the discretion which was given by the despatch of the Secretary of State, and having regard to the difficulty of taxing movable property, except by direct taxation in the form of an income or license tax, which was considered obnoxious by the hon'ble the native members of the Council, it was thought right and just, not only as a matter of expediency, but as a matter of justice, that the landed interests, and all classes of that interest, should pay for the construction of these roads.

His Honor the President said, that although we had not here what could be called representative institutions, he was sure that no one could have listened to this debate without feeling very much that in respect of a great measure like this it was eminently advantageous that it should be discussed openly and in the light of day by gentlemen, official and non-official, who, if not elected, were at least selected for their fitness to deal with such subjects. He hoped he might consider himself excused from going into the question which had been so much discussed, whether a measure of this kind affected the principles of the permanent settlement. He would also avoid the constitutional question whether, in the exercise of its functions, this Council was absolutely bound by the orders of the Secretary of State. No doubt to some extent India must be despotically governed by England, and it must be that when the Government of England, the representatives of the English parliament and of Her Majesty, had resolved upon any policy which affected this country, why then, in some shape or another it was necessary that that policy should be accepted here. But whether the constitution of this Council was such as to oblige us to accept blindly an order of the Secretary of State, was one of those questions which had not yet been discussed, and in respect to which the tone of this debate enabled him to avoid any discussion, for he thought that hon'ble members, official and non-official, had loyally accepted the position that the views on this subject which had been enunciated by the Secretary of State were fair and just, and such as we might properly attempt to carry out. No doubt this assembly was not a representative assembly as an English assembly was. No doubt it was true that in many matters, as the hon'ble member on the right (Rajah Joteendro Mohun Tagore) had said, in respect of freedom of action, this country

was treated differently from England, and also in respect to taxation. But he might venture to say that in respect to taxation and in respect to freedom of action, His Honor's hope and belief was that this Bill made a first attempt to assimilate the condition of things in the two countries—the condition of things in India with the condition of things that obtained in England; that was to say, whereas in England the people had not been accustomed altogether to depend upon the central Government—whereas they had not been accustomed only to cry to heaven for help, but they had been accustomed to help themselves by means of local taxation and local administration—an opportunity was given to the people of this country to help themselves as the people in England had been accustomed to do. The object and intention of this Bill was to make a beginning of self-government by introducing a mode of local self-taxation, and leaving the administration of the funds received from local taxation to the people of the locality for whose benefit and improvement the taxes are imposed. He had said that he did not desire to enter into the theoretical question in respect of the permanent settlement; but this he must say, that, as a question of practical possibility, it was essentially necessary that local taxation of the kind to which this Bill contemplated, should be introduced into this country. It was totally and absolutely impossible that a great central Government like the Government of India could do every thing; that a great central Government should not only do things which were essential to a central Government, but also do those things which in every civilized country in the world, and he might almost say in every uncivilized country also, appertained to localities. It was impossible that a central Government could attempt to do those things for every part of the country: it was quite clear that the possibilities of such a Government were limited; and if we had not a measure of the kind that had now been laid before this Council, many of the functions of Government would not be performed at all. The object, the principle, the very essence of this Bill, was simply this, that we sought to obtain from the people of Bengal permission to enable us to tax them for their own benefit; not for the general purposes of Government, but for the local benefit of a particular locality; and we wish to make the form and mode of taxation as local as we can. Even if the Government were willing to undertake functions of this kind, it was utterly impossible that they could do so with efficiency. It was in the nature of the work of a great Government that the further those works were from the central power, the weaker became the control of the Government, and the consequence was, that if attempts were made to carry out works by the money of the central power, the money was very apt to be wasted. The people in the locality had no interest in the money, and there were therefore no incentives to economy. What the experience of the world showed was this, that if small matters are to be economically administered, they must be administered by local means, by persons responsible for, and interested in them. Therefore we had, after most mature consideration, thought that we were justified in introducing a Bill for the purpose of local taxation for local purposes.

He might observe, that if he had supposed that the appeal that had been made by the hon'ble member on the right (Rajah Joteendro Mohun Tagore), that we should delay action in this matter until the decision of parliament should be obtained upon the petition—which the hon'ble gentleman had given us to understand had been presented to parliament; if there had been any reasonable ground for assuming that there was a probability that parliament in its wisdom might upset the policy and intentions of the Government—he should be ready to yield to the appeal of the hon'ble gentleman. But His Honor must say that it seemed to him that this question had been practically determined by a recent debate in parliament; and he must tell the hon'ble gentleman that he was most entirely and thoroughly convinced that the appeal of those who appealed in this matter was an utterly hopeless appeal. His Honor must tell him that he believed that this claim to be exempted from local taxation was one which had not met, and was not likely to meet, with the slightest sympathy from the landed and other classes in England, because landholders in England were too much accustomed to have local taxation imposed upon them to suppose that any class of landholders in any part of the world should

maintain successfully so extraordinary a claim as was put forward on the part of the zemindars of Bengal. In order to convince them that their appeal was hopeless, he might say this, that whereas the question had been decided by Her Majesty's Government now in power, in the debate on the subject which took place two or three months ago in parliament, an exactly similar expression of opinion was put forth by the leading men of the opposite party who, as the hon'ble member was aware, divided the British parliament. Probably His Honor might not only convince the Council of this fact; but he might also put before them some of the arguments upon which this Bill and the course of the Government was founded by reading a passage from a speech of a gentleman who, in this matter, took a leading part as a representative of the conservative party; he meant Mr. Cave. On the subject of local taxation in India, Mr. Cave said:—

"With regard to land, he should doubtless be met by the 'fixed settlement' [that was the permanent settlement]. Well he was speaking of what, speaking with great humility, appeared to him to be the most unwise of all arrangements by which the Government, unlike other landlords, precluded itself for long terms of years, and in some cases for ever, from sharing in the rapidly-improving value of land. Where faith was pledged it must be kept, even to our own hindrance; but there was no reason why the landlord should afterwards lay out large sums in raising artificially the value of the same land, without demanding from the tenant a percentage of the cost which, in this country, was freely given in such cases every day. Again, we had in this country a land tax redeemed in most cases at a fixed rate [that was the land tax Mr. Cave put, as corresponding to the land revenue in this country], but this did not prevent rates being laid over and over again upon land for local or what were called local purposes. Education was defrayed in great measure by local rates here: in India it was charged on the imperial revenue. And surely we might fairly ask for local aid to railways and irrigation works which so enormously increased the value of land and its products, that exports had multiplied nearly fivefold, and corn had risen in price at Jubbulpore from 12 shillings to 36 shillings a quarter. And all this through the state sinking 200 millions in improvements, expenditure on which in the last complete accounts made, according to the resolution of the Under-Secretary, the difference between surplus and deficiency, and yet taking the same rent as before, and in some instances even alienating land in perpetuity for a mere nominal price. Might not this system of local rates lead to the local and decentralizing management of affairs which was considered so desirable by those who looked forward to the native population assisting us to govern the country and becoming less apt than they were at present to call upon Government to initiate social reforms? At least we might begin locally, and try them with five cities before entrusting them with the empire."

Now, that last passage of Mr. Cave's speech was the bright side of this tax Bill, which he would venture to bring to the notice of those hon'ble members who had so much doubt of the expediency of the measure.

He might also clear the ground by stating that it seemed to him that local taxation must necessarily be in its nature local, and that it must be a tax upon the property fixed in a locality. He was very far from subscribing to the opinion that the hon'ble member in charge of the Bill in his individual capacity entertained, that an increase of the salt tax might be held as a reserve for provincial taxation; but at the same time he wished to impress upon the Council his belief, that any tax of such a nature—any general tax—was not one which we could impose for local purposes; because if you impose any general tax of this kind, it becomes in its very nature a provincial tax, which must be collected provincially, and which must be distributed provincially; and in that case it would be open to all the evils which he had brought to the notice of the Council as attending the attempt to administer central funds locally. We should be obliged to assign funds for particular districts which had no immediate interest in the raising of the tax, and the principal object of our local taxation would be missed. The nature of a local tax then, must be that it must be for a local purpose, and fall upon local property, that is, upon property which was in its nature local.

The matter was, no doubt, different as regards towns. We propose to exclude towns from the operation of this cess, not because they were not fit subjects of taxation, but because we consider that under the existing Municipal Acts these towns were sufficiently assessed for this very purpose of making and improving roads among the other purposes for which municipal taxes are imposed. We were in this respect following the precedent of many other

countries. The rule in England is, that you have one tax which is rural and another tax which is urban. Towns are made responsible for the maintenance of roads and other improvement in towns, and the country is made responsible for the maintenance of roads and improvements in the country. Now, take the case of Calcutta. It seemed to him that the people of Calcutta are very heavily taxed—so heavily, that at this moment we are giving from imperial funds very large sums for the maintenance of the roads in Calcutta. We are giving those sums from the imperial funds because we have heretofore believed that the local taxation of Calcutta is so heavy that we could hardly ask the inhabitants of the town to take upon themselves greater burdens. He need hardly say that the people of Calcutta would feel, and he thought justly, that if they were not only forced to maintain all their own roads, but were also taxed in order to maintain the roads of the country, that course would be unjust. As the people of the country had the privilege of using the roads of the town without paying for them, so the people of the town should be at liberty to use the roads of the country free of payment. His own impression was, that as a matter of fact, the people of the country made use of the town roads more than perhaps the people of the town made use of the roads of the country.

He might also say, though the question was not now before the Council, that in his view education stood on a totally different footing. He said this in order to clear the ground, and to remove any suspicion of the acts of the Government in this respect. The hon'ble member on the right (Mr. Thompson) had in this matter, with great ability and force, defended the action of the Government of Bengal, and in doing so he acted loyally and rightly. His Honor might say that in knocking over the suggestions on this point which had at one time emanated from the Government of India, the hon'ble member had slayed the slain. We should all feel it rather hard that all our failures should be brought up against us for ever after. Undoubtedly certain expressions were used by the Government of India from which that Government had discreetly and properly receded. The result was, that the question of education was at this moment entirely an open one. His own opinion was that education did undoubtedly stand on a totally different footing from roads. The benefits of education were of a different description, and to some extent they were more or less obtained by different classes of the people. Speaking for himself, at this moment he might say that his impression was that perhaps the greatest need of education was in our towns, and in any revision of our Municipal Acts and reconsideration of the mode of levying and expending municipal taxes, it might be possible to enable towns acting under a system of self-government to make adequate provision for education. What provision might be made for education in the country he could not at present say. But he would at any rate pledge himself to this, that we in no degree consider that the Government were undertaking, or that the members of this Council would be in any way pledging themselves, to impose a cess for the purpose of education on the same basis as that now proposed for roads, supposing that the cess on account of roads should be passed by this Council.

He need hardly enlarge on the enormous importance of roads and waterways, which are the subjects of this Bill. He thought that that had been very sufficiently set before the Council by the hon'ble members on the left (Messrs. Bernard and Bayley). He might say, however, that under the Bill the meaning of the term "roads" included rivers and waterways. It might be true that in some parts of the country roads, properly so termed, were not very much wanted. But he thought it had been shown to the Council that where roads are not wanted, rivers, canals, and khals, are very much wanted. The experience he had already had in the place he had the honor to hold, had sufficiently convinced him of this fact. He had received several petitions, one of which he had the honor to lay before the Council not long ago, from the inhabitants of several localities, earnestly praying that khals might be opened in their localities, and offering themselves to share in the expense of making the improvements recommended. Nothing was nearer the hearts of the people of Bengal than the improvement of khals and waterways. Well, that was included in the objects of this Bill, and we hoped that if the Council in

their wisdom should be pleased to pass this Bill, in respect of the opening of khals and water-courses it would be a boon to a large proportion of the population of Bengal, of which they would readily avail themselves.

Then came the question, Supposing it to be accepted by this Council that we are to impose a rate in the districts for the purpose of roads and communications, upon what property is that rate to be imposed? The Government had accepted the principle contained in the despatch of the Secretary of State, which is, that the rate should not be confined to land, but should be extended to all property accessible to the rate. His Honor's view was that property accessible to the rate is property fixed in a particular district; that, if you are to have a rate for the purpose of improving material things in a particular district, the property which you must tax, or the property accessible to the rate, is the property fixed in that district; that is to say, immovable property. He was quite aware that there is a good deal of plausibility attached to the argument that all kinds of property should be assessed for a purpose of this kind. But he might tell the Council without fear of contradiction, that that matter had been discussed in many countries, and that overwhelming difficulty had been found in assessing personal property for local purposes, because personal property is in its nature movable: it might be moved from one district to another; and it is also property which in this country in particular it is very difficult to get at. He would not say that if, in the course of the discussions on this Bill, any hon'ble member should bring forward some measure by which it may be possible and feasible to bring within its scope any other property than that included in the Bill, we should not be prepared to listen to the suggestion. But at present he considered that for purposes of this nature, the only property which might be considered accessible to the rate for the improvement of local communications is immovable property. The principle of our Bill is to tax all immovable property, and to make no exceptions whatever, and our belief and our hope is, that in the course we have followed we have honestly carried out that principle which had been so well laid down by the Secretary of State. His Honor also thought that the argument which had been used by the learned Advocate-General was not without considerable weight; and that argument was this, that the property which would chiefly benefit by the improvement of roads and water communications is the land and other immovable property. No doubt the principal immovable property of the country is land; and inasmuch as the great mass of the immovable property is land, the principal portion of the tax would fall upon it. But he would confidently say that by far the greatest pecuniary benefit from the tax would be derived by the landholders and others interested in the land. He might also say, although he did not put it forward as a cardinal argument in respect of this Bill, that it was a matter for very particular consideration, that from the earliest times that we had a knowledge of, amongst the Aryan races both in Asia and in Europe, the duty of keeping up roads had been one which had specially appertained to the holders of land. He might use even philological arguments to maintain this position. We all know the saying that cleanliness is next to godliness; but he would venture to say that among our early ancestors, next to godliness came road-making. He thought he might shew that the early similes by which virtue was described were derived from the mending of roads and ways. He need scarcely tell the Council that to improve the morals and manners of a man was in English expressed by the phrase "mend your ways;" and such expressions abounded in all Aryan languages. He might remind the members that both in the English and the Indian languages, a virtuous and good man was styled a "siddha" man—a straightforward man; and a crooked man, who went by tortuous ways, was a man who was devoid of virtue. He might quote many expressions used in ancient books, which to some of us were very sacred, to show that the special duty imposed upon landholders was the making and improvement of roads. The scriptural expression was well known—"Prepare ye the way before him; make his paths straight." That was evidently the form of order addressed to the ancient Asiatic landholders when a great man was coming through the country; and he thought

that many other expressions, to be found in the earliest records of our race, showed that the duty of making and repairing roads was one which fell upon the landholders, and upon the settled inhabitants of the country. A man who had no regard for the comfort of his neighbours was one who forced them to go about by tortuous ways, round the corners of his fields; whereas a man who had a regard for his own comfort and that of his neighbours, was one who made roads straight and removed obstacles which fell in the way. Not only was it the practice amongst the ancient Asiatics for landholders to prepare roads and make paths straight, especially when their ruler came their way, but it also has been universally the practice in Europe, where landholders have been always liable for making and repairing roads. We had at this moment special rates upon land for the making of local roads in England, Scotland, and many other countries. In India, too, the practice had come down to this day. He might appeal with confidence to hon'ble members whether, up to very recent years, it had not been the constant practice of the magistrates to issue circular perwannahs desiring the zemindars to repair the roads after the rains. He had expected to find this duty expressed in the engagements upon which the permanent settlement was founded. He had not found it expressed in a way upon which he could rely to enable us to enforce it as a legal obligation, but he had found what to his mind sufficiently accounted for the absence of a more express obligation. He found in all the old settlement records, both those which were issued by our Mahomedan predecessors and those used by the British Government in the early days, that there was a provision which might well be held to include this duty. He quoted from the papers regarding the permanent settlement a model form of engagement into which a zemindar entered at the time of that settlement. He found that at that time the zemindars engaged "*to take special c[illegible] of the highways and roads, so that travellers might pass and repass with perfect confidence and safety.* He was quite willing to admit that perhaps the major part of that obligation applied to the protection of the roads from thieves and robbers. It appeared to him, however, that there was also an implication in this, that the roads were to be made and kept in order by the zemindars, as far as they were made in those days. There was then no public works department; the roads were either mended by the zemindars or not mended at all. He thought it must be admitted, that if the zemindars were bound to take measures to enable travellers to pass over the roads in confidence and safety, they must have kept the roads in such a state that they could use them without breaking their necks or getting drowned; and therefore he would say that this accounted for the absence of a more special provision in the permanent settlement in regard to the maintenance of roads. It might reasonably be supposed that by including in this general engagement a condition that travellers should be able to pass and repass with confidence and safety, the obligation to keep those roads in some sort of repair was included.

Well then, supposing that we should accept the proposition that it was proper that this rate should be imposed upon land, and upon all other immovable property, a very important part of the Bill, and one which had our most anxious consideration, was this, on which of the persons interested in the immovable property should the rate be imposed, and in what proportions? He concurred most fully with almost every word which fell from the hon'ble member who introduced this Bill, but he must venture to differ from the hon'ble member in one particular, which was perhaps not very important. We had happily arrived at the same conclusion, but perhaps by somewhat different roads. As he understood the hon'ble member, he based his argument to some extent upon the position which was taken up in the report of the Cess Committee, that the ryots were roughly estimated to obtain profits from the land equal to about the amount of the rent which they paid. His Honor did not concur in that view. He must tell the Council that although we were immensely indebted to the Cess Committee for their report, which was most valuable; although ninety-nine hundredths of the conclusions to which the committee had arrived, we have accepted; still, speaking individually, he must say that he did not accept the position taken by the committee in this question of the taxation of ryots. He thought himself the more bound to explain that position because another hon'ble member

thought, and had suggested, that we should not tax ryots whose annual rents were under fifty rupees; that is to say, the great mass of ryots. His Honor's view was, that we did not tax ryots at all in the capacity of profit-makers, but we taxed them simply as *occupiers* of the land. In all questions of local taxation the question arose, who was to pay the rate?—the owner or the occupier? In the European countries with which we were best acquainted, that difficulty had been solved by charging half the rate on the owner and half on the occupier. That was the practice which had long obtained in respect of almost all local rates in Scotland, and many in England, and was now made applicable to general local taxation of all kinds in England by the new Bill for local taxation, which had been introduced by Mr. Goschen. Therefore, in adopting this principle in our Bill, we had adopted the most approved experience of England, where they have had a very long experience of local taxation of all kinds. The Government had come to the conclusion that, notwithstanding what he might call the political economy view, that landholders and tenants should themselves adjust these matters, it was practically better for all parties that the law should step in and say to landholders and tenants, "We will adjust the matter for you. Some tenants may be perpetual tenants, some may be holders for a term of years, some may be tenants at will, but as both owner and occupier will benefit by the local improvements we propose to introduce, our proposition is that you should divide the burden equally between you." And therefore, as far as he was individually concerned, his view was that the ryot paid, not as a profit-maker, but simply as an occupier, in the same way as the occupier of a house under part IV of the Bill paid half the rate and threw half the burden on the owner. It was quite true that we could not obtain absolute equality or absolute perfection in this or in any other matter. He thought that even the rack-rented ryots benefited by the improvement of roads and communications, and might fairly be called upon to pay half the rate. There was a certain logical inconsistency in this, that a ryot who paid a small rent was taxed in a small degree. He could only say that if that were so, so much the better for the favored ryot. His neighbour paid no more than his due, and he paid something less.

That was the only way we could get over it; for if we strove at perfection, we could never get our taxes at all. You could not value every ryot's holding,—at least not at present. If some get off too easily, that was no injustice to the man who paid a fair rate. You must consider, these ryots were the lowest in the scale of persons who were interested in the land, and you may reasonably suppose that the nearer you got to the actual cultivator, the nearer you got to the full rent rates.

He might also, with reference to the provisions on which several hon'ble members had commented,—provisions which seemed somewhat harsh, or, at all events, which put strong weapons in the hands of the collector for the realization of these rates,—say that he as much as any hon'ble member did feel that this was what he might call a blot in the Bill. He himself felt very confident that if we could get rid of this provision of the Bill, the principles of the Bill were unassailable. He hoped that no reasonable man in this Council, or out of the Council, would, in the calmness of thought, consider this Bill unreasonable, except in respect of the provision which enables the collector to realize arrears of rate by the mode prescribed for the realization of the land revenue. He therefore said that he took part with great reluctance in framing a Bill containing such a provision. We were so far driven to that course that, after considerable discussion, we were unable to suggest any efficient substitute for that provision; and he would therefore say that his own earnest hope was that in committee some better means for the realization of the rate might be devised, and if that could be devised, he should be glad to accept it at once. But if such means could not now be devised, still hereafter, when we had a better registration of the landowners in Bengal, why then we should be ready at once to abandon this provision to which we had been driven by mere necessity.

He would also say, with respect to the half-anna rate, that that was the maximum, and not a universal rate. He had not attempted to make any calculation of the total amount that would be derived from the rate. Nor indeed was this necessary. It would be sufficient, when the

time came, that the calculation of requirements should be made in each district. He had no doubt, however, that by fixing a maximum of the rate by legislation, we gave confidence to the people, for it was a guarantee to them that, though the local bodies might find it necessary to tax them to that extent, the rate could not be raised beyond it. It was with that view that a maximum rate had been fixed.

Then he came to a part of the Bill in respect to which he might say that his sympathies were completely and entirely with the hon'ble member on the right (Baboo Digumber Mitter), who addressed the meeting with considerable effect with regard to the extreme desirability of making the Bill in its administration as local as it was possible to make it. His Honor could only say that he entirely concurred with the hon'ble member in the belief that the object of making the benefits to be derived from the Bill as far as possible direct, immediate, and palpable, would be to a considerable degree lost if we were obliged to make the area of assessment and administration in all respects the same as a Bengal district. His hope was that we should succeed gradually in making the areas smaller and bringing the benefits which must result from this measure more immediately home to the very eyes of the people who paid the tax, and who were affected by it. His belief was that something more might be done in committee with the view of carrying out that object; and his hope would be that the committee might succeed in tempering down the tone of anything in which there might seem to be a despotic and a centralizing tendency. He hoped, further, that the hon'ble member might be induced to accept the principle of the Bill so far as to sit in committee and assist in manipulating its provisions; and he trusted that the hon'ble member, as well as other members of the Council, would go heart and hand in the object we had in view, namely, that of bringing this matter nearer to the homes of the people by making the area of rating as small as it was possible to make it, and making the benefits to be derived as direct and palpable as it was possible to make them.

He would not detain the Council by saying anything more as to the details of the Bill. He would only say generally, that if the Council would accept the main principles; first, that there must be a local rate for the purpose of local roads and local water communications; and secondly, that for the purposes of that rate immovable property of all sorts and kinds should be taxed, then the Government would be ready and willing to meet them as far as they could in the details of the measure.

MR. SCHALCH said, after the very full manner in which the objections made to the principle of the Bill have been met by the several hon'ble members who had addressed the Council, it would be waste of time for him to say any thing more at present. In regard to the details of the Bill, objections had been raised by the hon'ble member opposite (Baboo Digumber Mitter), and the hon'ble member on the left (Moulvie Abdool Luteef); but as he hoped that those hon'ble members would give us the benefit of their assistance in committee, he need not detain the Council now by entering into those details.

The motion was then agreed to, and the Bill referred to a select committee (with instructions to report within a month), consisting of Mr. Bayley, Mr. Bernard, Moulvie Abdool Luteef, Mr. Wordie, Baboo Digumber Mitter, and the mover.

The Council was adjourned *sine die*.

Saturday, the 8th July 1871.

Present:

His Honor the Lieutenant-Governor of Bengal, *presiding.*
A. R. Thompson, Esq.,
S. C. Bayley, Esq.,
V. H. Schalch, Esq.,
C. E. Bernard, Esq.,
Moulvie Abdool Luteef, Khan Bahadoor,
F. F. Wyman, Esq.,
Rajah Joteendro Mohun Tagore, Bahadoor,
T. H. Wordie, Esq.,
and
Baboo Digumber Mitter.

DISTRICT ROAD CESS.

Mr. Schalch moved that the report of the select committee on the Bill to provide for local rating for the construction and maintenance of roads and other means of communication be taken into consideration in order to the settlement of the clauses of the Bill. He said that the amendments and alterations which had been made by the committee were specified in the report. He did not therefore propose to give any general explanation of what those amendments were, but he would reserve any observations he had to make with regard to them as each section came before the Council.

The President said that in putting the motion to the Council, he would like to take the opportunity of tendering his best thanks to the select committee for their labours in regard to this Bill. He believed that the Bill had emerged from the committee very vastly improved, and he might say, without any disparagement to the eminently able and useful labours of the official members of the committee, that we were also most especially indebted to the non-official members of the Council who sat upon the committee, and who had been good enough to afford us their assistance in this matter. We feel the more under obligations to those hon'ble members, inasmuch as he believed they were originally not wholly prepared to accept the principle upon which the Bill was founded. Nevertheless, that principle having been asserted and accepted by this Council, those hon'ble members (Baboo Digumber Mitter and Mr. Wordie) had been good enough to give us most loyal and able assistance in carrying out the details of this Bill. And His Honor had no hesitation in saying that from all that he had learned and seen, he believed we may congratulate ourselves upon this, that owing to the labours of those hon'ble members the Bill had been put into a very much more practical and workable form; that was to say, that owing to the labours of those members of the committee, it had emerged from the hands of the

committee in a shape in which he hoped the Council and the public may be able to accept it with very little further amendment.

As respects the important amendments which had been noticed by the committee in their report, he would only notice one or two points. No doubt, as a matter of theory, the Bill, as an instrument for obtaining a complete valuation of all lands in Bengal, would not be now so perfect, since the option had been given of assessing estates paying under one hundred rupees in what he might call a somewhat arbitrary manner. But, individually, His Honor was convinced that enormous practical advantage would result from this amendment, inasmuch as the recorded number of estates would be enormously diminished, the work of rating would be smaller, the diminution of work would be great, and possibly the diminution of receipts would be small.

Then, as respects another very important amendment, made with the view of meeting objections which had been expressed both in and out of this Council—the amendment which has struck out the harsh and peremptory use of the Sale Law, and substituted a more moderate means of recovering arrears of assessment under this Act—he might say that he himself looked upon that amendment as a great improvement. He was aware that this amendment would not be popular with collectors: it was an amendment which would throw upon them a very considerable additional burden. He was even free to confess that some of our most experienced officers had doubts as respects the working of this portion of the Bill as it was now amended by the select committee. It was possible that they might be justified by after events: at the same time, speaking for himself, he would say that the Sale Law was altogether a harsh one, and one which it would be desirable to amend as far as possible; and therefore it was in every respect both right and proper that we should at all events first try some milder means of collecting money under this Bill, and if those means failed, then we might try some harsher measure; because, if the Council should be pleased to pass this Bill, we should not allow ourselves to be trifled with, but we should, if necessary, devise some other means to collect the money. But he hoped and believed that we shall succeed in collecting the money under the mode proposed by the committee, or in any other mode which the Council might think fit to introduce into this Bill, and that we shall not have to regret having avoided a method of collection which was opposed alike to the feelings of the Council as to the general community. With these few words, he begged to put the motion to the Council. The effect of that motion would, he believed, be that the Bill would be taken into consideration in the form proposed by the select committee, and not in the form in which it was originally introduced in Council.

The motion was agreed to.

The consideration of sections 1, 2, and 3, was postponed.

Section 4 was agreed to.

Section 5 having been read—

MR. SCHALCH said, an alteration of rather an important character had been made by the select committee in this section. As the section stood, it required

the holder of every estate and tenure to furnish a return; but information was called for by the Board of Revenue, and from their records a statement was prepared showing the number of estates paying a revenue to Government of over one hundred rupees, and the number of estates whose revenue fell below that amount. It was found, that taking the permanently-settled districts alone, there were 27,770 estates paying each a revenue of over Rs. 100 and aggregating within a few rupees of three crores, while there were 166,000 estates paying a revenue of something under 21 lakhs. This was altogether independent of the temporarily-settled estates. In some districts the proportion was peculiarly large in regard to small estates. In Chittagong, out of 38,118 estates, 28,000 paid less than Rs. 50, and 562 less than Rs. 100. In Sylhet there were 7,944 estates permanently settled; of these, all but 163 paid less than Rs. 100. In Cachar a similar state of things existed. We found there about 77,800 estates paying a little over 4½ lakhs of rupees, and 20,000 estates with a revenue of Rs. 62,000—only 464 estates paying more than Rs. 100, and 25,000 paying less than one rupee. In such cases it would be very unadvisable to require these elaborate returns; and it was therefore accepted by the committee that they should prescribe a summary mode of assessment in the case of estates paying less than Rs. 100, with ample power given to the proprietors to object to the assessment, if they considered it too heavy, by giving in their returns. The mode in which that process was defined was prescribed further on in a subsequent section, and he would therefore postpone his remarks as to the procedure in respect of these estates. He would merely now mention that although the alteration in the section under consideration departed in some measure from the principle adopted in the Bill, which requires the assessments to be made upon the returns furnished by the proprietors of the gross rental of their lands, he hoped it would immensely facilitate the working of the Bill without, on the one hand, inflicting any injury on the proprietors so assessed, or on the other hand, subjecting the Government to any great loss owing to undervaluation of the tenures.

The section was then agreed to.

Section 6 having been read—

Baboo Digumber Mitter moved to omit from the section all the words from the word "and" in line 9 to the word "provided" in line 21. He said that the ground for making this motion would appear from the amendment which he would propose in section 7, and therefore it would be necessary to take both the amendments together.

The President said, the amendment which the hon'ble member intended to propose in section 7 would, he thought, more properly come in section 6. It appeared to him that it would be quite impossible to give up the penalty provided in section 6 until some other penalty should be substituted for it. The difficulty would, he believed, be got over if the hon'ble member would move the amendment which he proposed for section 7 as an amendment in section 6.

MR. SCHALCH suggested that the consideration of section 7 should be proceeded with before section 6.

The consideration of section 6 was then postponed till after the settlement of section 7.

BABOO DIGUMBER MITTER then moved, in section 7, to omit all the words from the word "every" in line 5 to the end of the section, and substitute the following:—

"the collector may fix the annual value of the lands comprised within the estate or tenure in respect of which no return shall have been lodged, at such multiple of the revenue or rent payable therefor as he may think fit, or in any other manner as to him shall seem expedient. Provided that the holder of any such estate or tenure may, within one month from the posting of the valuation roll in respect thereof under section XVII., lodge a return in the form in Schedule (A) contained in regard to such estate or tenure, and thereupon the annual value of the lands comprised therein shall be fixed at the amount entered in such return, subject to the provisions of sections XII, XIII, and XIV. Provided further, that when lands comprised within an estate or tenure shall be valued as aforesaid, on failure to lodge the said return within the said period, no portion of the cess payable therefor shall be recoverable by the holder thereof from the holder of any tenure comprised in such estate or tenure, or from any cultivating ryot thereof."

He said it was to obviate the necessity of the penal clauses of this Bill, that is, the levy of fines, and disqualifying defaulting parties from suing for rents, as also to dispense with the necessity of the clause calling on the collector to make a valuation in cases where parties had not availed themselves of the power to submit returns, that this amendment was moved. He thought the process here proposed was just as efficacious to compel parties to produce their papers, from the fear of having to pay according to an assessment by the collector, which would be a very high surcharge, and not being able to recoup themselves from their under-tenants or ryots.

THE PRESIDENT said he must oppose this amendment as an amendment on section 7. Section 7 was a section complete in itself. It was not strictly of a penal character. It simply proposed that a man who was in a state of contumacy, who had after warning failed to submit his return, should not be allowed to use the courts for the purpose of collecting his rents. His view was that the amendment of the hon'ble member was worthy of consideration as a substitute for the penalty provided in section 6; but His Honor was altogether opposed to the substitution of any such amendment for the disability proposed by section 7. It seemed to him that whatever positive penalty we might pass in section 6, section 7 was a section that ought to stand, and one which we ought not to abandon. It was a simple disability under which the zemindar laboured who was in a state of disobedience and contumacy against the law.

BABOO DIGUMBER MITTER said, the disability might in many instances overtake innocent parties on whom notices had not been served. It was admitted on all hands in committee that there would be difficulties attending the due service of notices, and hence it would be very often that the innocent parties would suffer for the guilty. So far as regards fines, no doubt it would only be enforced on proof of due service of notice, but the disqualifying clause would

be in operation until the returns called for had been lodged, whether or not the party had been previously served with the notice. It might very often happen that the first notice a man had, that he was required to file certain returns, was on his going into court, and not being allowed to sue; it was nothing but fair and proper, under the circumstances, that a reasonable time should be allowed to him from that date for submitting a return. But the disqualifying provision of the Bill would not admit of relaxation under any circumstances, save the production of the required papers. This he thought was extremely hard.

THE PRESIDENT would ask the hon'ble member whether he thought any zemindar would be so ignorant, after all these discussions, as not to know that these returns would be required.

BABOO DIGUMBER MITTER said, he believed that a vast number of zemindars were more ignorant than ryots.

MR. WORDIE asked whether the punishment was not disproportionate to the offence. In a country like this, where the revenue laws were carried out with great stringency, and where a man's estate was sold up for arrears of revenue, it would be an extreme course that for his recusancy he should not be allowed to collect his rents. He thought it could be shown, from the policy of the Government for many years back, that there ought to be some proportion between the offence and punishment. In old times capital punishment was inflicted for very trivial offences; and the punishment here proposed was of such severity that it might be called capital in the circumstances. If a man would not submit his return, fining him fifty rupees a day was a sufficient penalty, and it might be expected that he would then come forward and do what was required. But if it was said he was not to recover his rents, particularly where there might be a disposition on the part of his tenants to refuse payment, in such cases the disability to sue would act as an incentive to under-tenants to hang back and throw difficulties in the way of collection. Under these circumstances he (Mr. Wordie) thought we ought to stop at section 6, and strike out section 7 altogether.

MR. RIVERS THOMPSON said, it did not seem very clear what section it was proposed to amend. The hon'ble member who spoke last would retain the penalty under section 6, and do away with the disqualification under section 7; while, as he (Mr. Thompson) understood the amendment, the hon'ble mover would stop at the 9th line of section 6, and do away with the penalty of fifty rupees, and qualify the procedure under section 7. It seemed to him that the two things were in some sense different. The penalty under section 6 was very much more personal than the disqualification under section 7. If the zemindar refused to furnish his return, he would be liable to a penalty of fifty rupees a day as long he chose to refuse, and under such a liability he would think twice before he withheld what he could easily supply; whereas, even with the disqualification under section 7, there were means which the zemindar could resort to for bringing his sub-tenants and ryots in accordance with his own views, and arranging so that personally he should suffer no inconvenience from the disabi-

lity to sue, and thus the operation of section 7 would be a dead letter. Therefore he (Mr. Thompson) thought that the Council should first carefully consider section 6, and decide whether or not there should be a personal penalty for refusing or neglecting to give in a proper return, and then consider the further question whether the disqualification to sue should also be applied to the same recusancy. He was inclined to maintain section 6 in its integrity.

MR. WYMAN said, it seemed to him somewhat harsh to attach two penalties to one offence. He believed that the penalty of fifty rupees a day was so heavy that a recusant zemindar was not likely to incur it, and in most cases it would amount to more than was proposed to be realized as a cess. His Honor had justly remarked that no doubt a man who refused to obey the law should not have the protection of the law, and there was certainly great force in that argument. But the question was whether, if section 7 was allowed to stand as it was, the penalty of fifty rupees should be allowed to remain at its present maximum. He thought that if the fine of fifty rupees was retained at its maximum under section 6, section 7 should be done away with. Either the penalty should be reduced, or section 7 should be amended.

THE PRESIDENT said, his suggestion was that the hon'ble member should bring forward his amendment as an amendment on section 6; he thought also that the hon'ble member on the right (Mr. Wordie) had taken an exaggerated view of the severity of the penalty. All rents were not collected by process of law. To deprive a man for a few days of the power to sue till he should submit the return which he ought to have given in before, was not a very great hardship. Then, with regard to the exceptional case, when a man had not it in his power to produce his return within the proper time, he might say to the collector that he laboured under such and such difficulties, and if he had good grounds, say the case of a new auction purchaser of an estate, the collector would give him more time: a case of that kind would be dealt with by the collector at his discretion. It seemed to His Honor that the provisions of section 7 were really not severe. He should like to say this with regard to section 7: we were in this stage of the Bill that we were not supposed to know who the zemindars were; we do not know who are to give in returns; we wish to have a penalty which would force some one to submit a return; and to do this, we should either impose a penalty, or disable the owner from coming into court, or do both. There seemed to him no reason why we should not do both. If the hon'ble member elected to proceed with his amendment as an amendment on section 7, His Honor should oppose it; but he should be glad, in accordance with the suggestions of the two hon'ble members who had spoken last, to give the hon'ble member the opportunity of moving an amendment with reference to section 6.

BABOO DIGUMBER MITTER said, his object was to do away with both the sections. He thought the amendment which he had proposed was stringent enough to compel the submission of returns. There was, besides, another object

in view, namely, to do away with the 11th section of the Bill, which provided for valuation by the collector in cases where no return was submitted. He did not see that in making the valuation the collector had any other choice than to receive upon trust whatever the tenure-holders or the cultivating ryots might admit to be their respective rents, and these might be considerably understated; while the only other mode of fixing the valuation, *viz.* by measurement and assessment according to present value of lands comprised within the estate, would argue competency in the collector to assess the ratepayer upon more rent or profit than he actually paid or derived, which he need not say was diametrically opposed to the principle of assessment adopted in the Bill. The amendment which he had proposed was well calculated to meet the object in view.

MR. SCHALCH said, he believed the Council had now before them the proposed amendment of section 7. Looking into the Bill, he found that sections 6 and 7 formed practically one section, because section 7 was a mere extension of the penalty prescribed for the non-submission of the return required by section 6. He thought, therefore, that in discussing this question we must consider sections 6 and 7 of the Bill together, as well as the amendments proposed in those sections. It appeared to him that the facts of the case stood thus. Under the Bill as it stood, if the return was not submitted, the holder of an estate or tenure so failing would be liable to a daily fine; then he would not be able to sue for rent until the return should be given; and lastly, by a subsequent section power was given to the collector to value the estate or tenure on the continued persistence of the proprietor in refusing to submit the return. For that course the hon'ble member proposed to submit this, that on the lapse of the date on which the return should be given, the collector should have power at once to assess the estate either on a calculation based on a multiple of the sudder jumma, or in any other way that he thought fit, it being understood that the assessment would be a penal one in the nature of a surcharge, and probably would be put so heavy that it would force the zemindar to give in a return. Or if this surcharge should not prove effectual, a further penalty would be added, that in cases where the estate was so assessed by the collector in the absence of a return, the zemindar would have no power to recover any portion of the cess from his under-tenants, but must pay the whole himself: and the hon'ble mover of the amendments supposed that these two penalties, first, a very heavy surcharge on the estate, and secondly, that the zemindar would have to pay the entire cess, would be sufficient to procure the submission of returns. Now, with regard to this, there was, first, the difficulty of the collector surcharging. Probably, if he (Mr. Schalch) were to tell his hon'ble friend that the collector had determined to surcharge to the extent of ten or twenty times the Government revenue, he would say that it would be a sufficiently harsh measure. But on looking over many of the returns that were received in the Board of Revenue for estates under the court of wards, he found that an estate which paid a revenue of Rs. 2,500 had a mofussil jumma of Rs. 1,20,000, about 51½ times the sudder jumma. Well, it was very clear that by taking what would appear to be a very high rate, we should in most cases be fixing a heavy surcharge, and induce zemindars to give in their returns; but there were cases

in which no multiple of the revenue that would probably be taken would really represent the annual value of the land, and we might fairly presume that no zemindar or holder of a tenure would give in a return until he knew what assessment the collector would fix upon. You might safely say that if the collector fixed upon a value considerably less than the rental, the zemindar would remain satisfied; but if the collector fixed upon a higher sum, the zemindar would give in his return. Because if the collector fixed upon a less sum, the zemindar would have to consider whether the payment of the cess would be greater than the sum he would have to pay on his own return, deducting the amount recoverable from his under-tenants. He would wait to see which calculation would suit him best, and the effect of the amendment would be to throw back the delivery of the returns for at least three months. Then, on the other hand, the procedure proposed in the amendment would have this advantage, that if the return were not made within four months, the assessment fixed by the collector would become final, and within four months the assessments would be completed. On the other hand, under the procedure proposed by the select committee, if the returns be not given within three months, there would be still another month before the collector could proceed to make the valuation, and that operation would probably be a matter of considerable labour and delay; although it was to be hoped that these valuations would have to be made only in very exceptional cases, since the penalties prescribed by the Bill would first be inflicted, and under them the returns would probably be given. We had then to consider whether it was better to adopt the procedure suggested in the amendment, with the probability of possible loss by under-valuation, accompanied with the delay of a month, or whether we would adhere to the sections as they stood in the Bill. He thought there were advantages on both sides. The chief objection to the amendment was, in his opinion, that it tended to set aside the principle of the Bill, which he took to be that every man should be assessed on his own valuation. Tht principle was now proposed to be set aside in favour of a very haphazard one. He believed, however, that the penalty of having to pay the whole assessment would operate as a much stronger inducement than the infliction of fines to the zemindar to give in his return, because we know that under the Partition Law, where similar returns are not given in by shareholders, a man would go on from week to week and month to month in the hope that by some way or other he would get off payment of the fine, and the result was that before the returns could be obtained the share in the estate might be sold. But in any case he thought we must still very carefully retain the provision in section 7 of our Bill: no similar provision was made in the proposed amendment. The provision is to the effect that where a return was given, that return should be held to be evidence of the amount of rent; if this were not retained, there would be no security for the correctness of the return; and therefore it should be distinctly understood, before the amendment was accepted, that a rider would be put upon it to that effect. He might say that one great reason which recommended this amendment to his mind for acceptance was, that we thereby got rid of the vexatious penalty of disabling the zemindar from suing for the rent of the land in case

of his refusing to give in his return. For his own part he did not think it hard, because the zemindar had had notice to perform a certain duty, and it was only on wilful failure to obey the law that the penalty came into force. The hon'ble member on his left (Mr. Wyman) had said that there was no necessity for a double penalty, the penalty of a daily fine, and in addition a penalty of withdrawing the power to sue for rent. He (Mr. Schalch) believed that a fine would not operate with sufficient severity, and it was only by the infliction of the second penalty that we should get the return. On the other hand it might be said, "very good, leave out the fine and adhere to the second penalty." He believed that in many cases there might be estates so situated, where there were ryots without proprietary rights, that the want of the power to sue would be a mere nominal penalty, because in cases of that kind rents were recovered without having recourse to the law. We therefore did require a double penalty in any case. The question then for the Council was to consider whether we should substitute for the existing penalties provided in the Bill the penalties proposed in the amendment. For some reasons he thought the latter penalty would be more effectual, but there were other objections which went to the principle of the Bill, and undoubtedly the amendment would involve delay in the completion of the general assessment.

THE PRESIDENT said, his view still was that under any circumstances section 7 was necessary. It seemed to him that the hon'ble member on the left (Mr. Schalch), who had fully discussed the question, had somewhat under-estimated the dilatory character of the proceedings. We must remember that at best the process under this Bill was but a slow one. The select committee had given great consideration to the zemindars. First, the collector must get out his proclamation, and that was to run a month; then he was to go through the whole process of preparing and serving notices on the zemindars: this would take some time; then those notices would have to run three months. When that time had run out, why then the collector must consider at what rate he was to value the estate, unless he adopts some absurdly penal rate—unless he estimates it a thousand times the sudder jumma. He must inquire what kind of a zemindaree it was, and what the value and the nature of the property, before he could put a sufficient valuation. His Honor did say that as far as his own individual opinion was concerned, you must have some penalty for the non-submission of returns; and in his view a necessary penalty, having regard to the dilatory process under the Bill, was that as long as a man exercised his dilatory rights he must be disqualified from suing for rents. Therefore, taking the present motion as an amendment on section 7, he must vote against it.

The amendment was then negatived, and the section was agreed to.

Section 6 having been read—

MR. WYMAN moved the substitution of the words "Rs. 10" for "Rs. 50" in line 16. He said, he thought it was not absolutely necessary to make this penalty so high. Many a zemindar was a poor man, and the imposition of a daily fine of Rs. 50 on such a man would entirely ruin him. Seeing that there was a

strongly punitive provision provided in section 7, we could well afford to lessen the amount of the penalty under section 6. He thought that a daily fine of Rs. 10 would be quite sufficient, considering that the majority of the zemindars were poor; and it could hardly be supposed that the rich and intelligent zemindars would evince a disposition to evade the requirements of the law.

MR. RIVERS THOMPSON said, the hon'ble member seemed to think that the fine of Rs. 50 was a fixed penalty. The clause said that the fine "may extend to Rs. 50." A great deal would be left to the discretion of the collector. In the case of many small estates, of course the collector would not impose the maximum penalty; and in some cases, as pointed out by the hon'ble mover of the Bill, the penalty of Rs. 50 would scarcely be sufficient. He thought, therefore, that there was sufficient reason for retaining the penalty at the rate prescribed by the Bill.

MR. SCHALCH said, there was a very similar provision in the law for the partition of estates, by which a shareholder refusing to produce his papers was liable to a daily fine until he produced them. In that law there was no maximum of penalty fixed: it might be imposed to any extent which the collector and the Board of Revenue might determine. Yet under that law it was found that even that provision was in some cases insufficient.

THE PRESIDENT said, the hon'ble mover of the amendment must see that in the case of very large estates a fine of Rs. 50 a day would really be a small penalty. It must be left to the discretion of the collector to impose a fine according to the circumstances of each case.

MR. WYMAN said, after what had been said he would by leave withdraw his amendment. His reason for moving it was to prevent a man being harshly treated: it was to be hoped that the collector would exercise a proper discretion in fixing the amount of fine.

The section was then agreed to.

Section 8 having being read—

MR. SCHALCH said, this new section had been introduced to obviate the necessity of calling for returns in the case of small estates. The section provides that the collector shall have power to assess the annual value of a small estate, or of a small tenure of a large estate, to the extent, in permanently-settled estates, of three times the Government revenue or rent, and in the case of temporarily-settled estates, to the extent of twice the revenue or rent. Since the committee had reported, it had been brought to his notice that in regard to the districts where small estates were the most numerous, as in Chittagong and Sylhet, it would be a good plan to give the option to the collector to make his valuation by some other mode. As a rule, the committee objected to the principle of valuation by acreage, and he thought very properly so; but as regards these districts, there were circumstances connected with them which might render such a mode of valuation preferable to the mode provided in the Bill. In these districts these small estates had been thoroughly surveyed, and their area was accurately known: it had therefore

been suggested to leave it to the option of the collector to fix the valuation upon the area. Our object was not to surcharge, and thereby force the parties to give in their returns, but rather to induce them by fair valuation to accept the assessment rather than be at the trouble to give in a return. He thought, therefore, that it would be expedient to give a discretion to the collector in regard to the mode of valuing these small estates. Further, the section appeared to be defective. The collector would know that the assessment of the entire estate or tenure would be so much, and would calculate his demand for the cess accordingly; but when it came to a settlement between the superior holder and the under-tenant, it would be a matter of impossibility for the superior holder to know what amount of cess he had got to recover from his under-tenant, because he would have to make his demand on the annual value of the inferior holding. If a return was given, that would show the names of the inferior holders, then the collector would have the power to call upon them to state the value of the under-tenures, and on the information so given the superior landlord would be able to obase his demand; but as in these cases no return would be submitted, it would be impossible to obtain the necessary information to enable the superior landlord to recover from the holder of an inferior tenure.

Therefore, in considering the question, it seemed to him that some provision must be introduced to enable the superior holder to make a demand upon his under-tenants for the share of the cess payable by them. Not thinking that the Council would advance so far in the settlement of the Bill, he had not given notice of an amendment, and as it was an important provision, he would ask that the consideration of the section be postponed to enable him to do so at the next meeting of the Council.

The further consideration of the section was postponed.

Section 9 having been read—

Mr. Schalch said that this section was also entirely new. It was introduced to meet the case of lands used for the cultivation of tea, coffee, or cinchona. These lands were held in the actual occupation of the proprietor and were not let out, and it would therefore be impossible to ascertain what their annual letting value would be. The calculation on which they would have to be assessed would be so different from the process adopted in regard to other estates that the mode of procedure as regards other estates would not apply, and therefore the committee had proposed that instead of requiring a return showing the gross rental of the land, the return should show the actual area under cultivation, and the annual value of the estate should be held to be a certain fixed sum per acre of the cultivated portion of the estate. The committee had fixed that value at Rs. 10 per acre, which would give a cess, at the maximum rate, of five annas per acre, or half an anna on every rupee. Five annas per acre would be equal to a rate of about $1\frac{3}{4}$ annas per beegah, and that was assumed to be about the rate that would fall on ordinary zemindary lands.

Mr. Worde said he did not find fault with the rate proposed, but it seemed to him that the enterprise had hitherto been attended with so much difficulty, and

was so young, that it could scarcely now bear a tax of this nature. He did not mean to say that roads were not wanted in these districts as much as in others, but it was to be remembered that they were frontier districts and that the principal means of communication would be for political purposes, and he asked therefore that some delay should occur before this section was introduced and the assessment put upon the gardens. He merely put this as a matter for His Honor the President's consideration.

THE PRESIDENT said, he thought it was due to the hon'ble member that this section had taken the form in which it was introduced in the Bill. By it great difficulty had been obviated in the mode of assessment of these estates. With respect to the hon'ble member's observations, he might say that the section would apply almost exclusively to tea plantations. The tea districts in which those plantations were formed were sparsely inhabited in comparison with other districts, and if this provision was introduced in those districts, the tax would principally fall on tea planters. With respect to the suggestion that there should be delay in the imposition of the tax in this matter, if he should continue to be the head of the Government, he should be very much guided by the wishes of the planters themselves. But he thought that perhaps communications were required more in those districts than in any other: in fact the want of roads had been so seriously felt that he believed it was at one time proposed to have a voluntary cess. It seemed to him that proper and sufficient means of communication were essentially necessary to the planters; but the hon'ble member must no doubt understand the wants and wishes of the planters better than His Honor could possibly do; and therefore, in regard to the suggestion that the Bill should not be enforced precipitately, His Honor was prepared to say that in regard to introducing the Bill in tea-planting districts, he would give much weight to the wishes of the planters. If they did not want roads, perhaps it would not be necessary to introduce the cess in those districts.

The section was then agreed to.

Section 10 having been read—

THE PRESIDENT said, the committee were so fortunate in this matter as t have hit upon the exact plan suggested by the British Indian Association, ε they were represented by the hon'ble member on the right (Rajah Joteendr Mohun Tagore). In the letter signed by him in his capacity of honorar secretary to the Association, which he had been good enough to submit to th Council, His Honor found, in regard to section 7 of the original Bill, which wa now section 10, and section 19, under which dues would be realized, that th Association had in effect suggested what the committee had now proposed i section 10. He therefore trusted that the provision would be accepted as a goo solution of the question. As he had said, it was in a certain sense an experimenta provision, and if we found that it did not work satisfactorily, it would b necessary to devise some more stringent provision.

MR. SCHALCH said, it was felt when this Bill was introduced that it would be well if some other effectual process could be substituted for the provision which stood as section 7 for the recovery of fines. The result was the section before Council. He was not quite sure that in the amended Bill we had not done an act of cruel kindness. He believed the penalty introduced into the original Bill was so decided that it would never or very rarely be incurred, and he felt that much time, trouble, and nuisance would have been saved by its retention. He himself could recollect the time when at its introduction the present very stringent law for the recovery of arrears was objected to as harsh and oppressive; but the result had been just the contrary. Now the revenue was paid in punctually, and much pecuniary loss to the defaulter consequent on the mode of recovery previously in use was obviated. During the last year the number of estates sold for arrears of revenue were ·03, or about $\frac{1}{30}$ per cent., and in three-fourths of these cases the estates had been sold because they had suffered from diluvion, or there had been on the part of the owners a desire to have them sold on account of disputes, or some such cause, and the sales were in fact voluntary sales thus made, bringing in a very high value. He believed that if we had adhered to the original proposition we should have followed a far better course. He believed that now fines would be very often incurred. He was quite willing to give the proposed procedure a fair trial; but if, in consequence of combinations, or for any other reason, the provision was found insufficient for the recovery of the fines, he presumed that the proper course would be to enact a more stringent provision.

MR. RIVERS THOMPSON said, he had not the honor of serving on the select committee which introduced this amendment, but he was in the original committee which framed the draft Bill, where this question of the mode of realization was very largely discussed. Certain official members of the committee were strongly of opinion that both in the interests of those paying the cess and of the public generally, the mode of realization by the process provided by the Sale Law was the simplest and the best. He quite agreed with the hon'ble member opposite that this was a sentimental concession which would be but a cruel kindness to those whom it was intended to benefit; and he believed that it would throw a great burden on collectors, and that the result would be by no means so effective as the rule prescribed by the first committee.

MR. BAYLEY expressed his full concurrence with all that the hon'ble mover of the Bill had said on this subject. On a previous occasion he gave his opinion that the provision in the original Bill was a great defect. In committee the feeling was so strongly against it, that he concurred with the other members in accepting this as at all events the second best—not as he considered the best—process for the realization of fines and arrears.

BABOO DIGUMBER MITTER said, the process of recovering arrears by sales of estates would simplify the work of realizing fines, but he thought it was rather monstrous that a man's landed property should be sold for arrears of munici-

pal rates. As far as the collection of fines went, there could be no question that that would be the simplest mode of realization.

RAJAH JOTEENDRO MOHUN TAGORE said, when we remembered that the zemindary dawk tax and other cesses were realized under some process similar to that now proposed, he did not see why the principle should be objected to in order to give additional facilities to the officers of Government for the realization of arrears of the road cess.

MR. BERNARD said, he should like to mention that in other parts of India, and in the place from where he had come, the revenue officers considered it a *disgrace* to sell up a man's estate for petty arrears. He had had five or six districts under his charge, and in them not a single estate had been sold for Government revenue. We had always got in every penny, and we had done that without selling up a single estate.

MR. WORDIE said, he had no doubt that the realization of the cess would easily be made under the present section; but if the arrears could not be collected by this process, he had no hesitation in saying that more stringent means must be adopted.

MR. WYMAN said, he had seen with much pleasure the introduction of this section. He thought it would have been a blot in the Bill if it had gone out of this Council with such a sledge-hammer in it as the provision for realization by sale of estates. He thought the convenience of the collector or anybody else had nothing to do with abstract principles of justice. No doubt the recovery of fines would be far more expeditious and summary under that principle; but he did not think that we should make a municipal law (for this Bill was nothing more than that) the terror of the people. The provision now introduced existed in other municipal enactments, and he thought it would have been a faulty policy to introduce a stringent revenue law for the recovery of fines imposed under a simple municipal law. He thought the effect of this provision would be to carry out the object desired, and that there would be no necessity for any alteration of a more stringent character.

MOULVY ABDOOL LUTEEF said, he was one of those in the select committee who supported the substitution of this section for the provision in the original Bill, as he found that its most objectionable feature was contained in that section. He therefore thought this was an improvement, and would be sufficient to remove a great deal of the objections which existed with regard to this Bill.

MR. RIVERS THOMPSON only wished to remark that "the sledge-hammer" used in these provinces was worked by a machinery that was fitted to break the hardest rocks as well as the smallest stones.

MR. SCHALCH said, the remarks which he had made applied to the provision for the recovery of fines. He was quite contented with the similar section for the recovery of the cess, since that would be recovered by the sale of the personal property of the person from whom the cess was due, and no difficulty would be experienced in ascertaining who that person might be. But with regard to the recovery of fines, you might not know whom you have to deal with. Then, if you

go to the next mode and prohibit the payment of rents, you may attain the very result which it is desired to avoid, namely, the sale of the estate, because the attachment may tend to the indirect sale of the estate for arrears of revenue. Therefore he thought the two cases, that of recovery of fines and recovery of arrears, did not run on all fours. He thought the process of recovering arrears by sale of estates would better be likened rather to a steam-hammer which could be so adjusted as to break the hardest blocks or tap a small egg. He had himself been in districts where the revenue was not recovered by sale of estates but of personal property, and the result was, as he knew when he was in charge of the district of Balasore, that very often four or five times the amount of arrear had to be paid by the defaulter as the expense of the process of recovery. He had the satisfaction of introducing the Sale Law there, and he remembered that though it was very much objected to at the time—it being said that the poor Ooryas were improvident, and that their estates would very often have to be sold for arrears—it was found to work well and to the advantage of the people, for it was found that since the introduction of the Sale Law sales of estates for arrears were as little known there, except when the people wished to get rid of their estates, as in other districts.

THE PRESIDENT said, the opinions of the several experienced officers of the Government sitting in the Council in respect of the change in this section of the Bill were entitled to the greatest respect, and he could not but sympathize with the groans which might come from the collectors on account of this change. At the same time he would express his individual opinion, that he not only accepted the change made in the Bill as a concession to the opposition made to the original provision both in and out of Council, but he thought it was right and proper to do so. He must say that his early education in the service led him to sympathize with those who opposed the stringency of the Sale Law. He had been accustomed to provinces such as those described by the hon'ble member on his left (Mr. Bernard), in which it was considered a disgrace to bring an estate to sale. Other effectual measures were resorted to for the realization of arrears of revenue, and although the experience of the hon'ble mover of the Bill had not been in that respect fortunate, His Honor's opinion had led him to a different conclusion. There were other modes of collecting the Government revenue which had been eminently successful without selling up an estate. The Sale Law was a harsh measure, by which all subordinate rights were swept away in a most summary manner. His hope would be, not only that it would not be necessary to apply that law to the provisions of this Bill, but that it might be possible at some future time to mitigate the provisions of the Sale Law even in respect of the collection of arrears of revenue. At all events, he thought it was the duty of the Council to devise other measures in respect of this Bill, and he had much pleasure in submitting to the Council the question that section 10 stand part of the Bill.

The section was then agreed to.

Sections 11 and 13 were agreed to with verbal amendments.

Section 12 and sections 14 to 20 were agreed to.

Section 21 having been read—

MR. SCHALCH said, he might observe that the British Indian Association had suggested that as a reduction was given to the tenure-holder from the cess to be paid on his proportion of the rent or revenue, a similar reduction of 25 per cent. should be given to the ryot. He (Mr. Schalch) still held the opinion that we had assessed the ryot on the supposition that his profits were equal to his rent, and therefore any deduction that might be given would militate against the principle accepted by the Council in other cases in which the cess was taken on the profits.

THE PRESIDENT said, if the hon'ble member on his right, who signed the letter of the British Indian Association in his capacity of their honorary secretary, was of opinion that a change should be made in the direction which he pointed out on the part of the Association, it might be effected by proposing that the proportion of cess paid by the ryot should be one-third instead of one-half the rent paid by him.

RAJAH JOTEENDRO MOHUN TAGORE said, as far as he was individually concerned, he did not quite agree with the view taken by the British Indian Association of making a reduction from the cess payable by the ryot; but as that view had been taken by the Association, he had signed the letter in his capacity of their secretary. But he was not prepared to move any amendment on the section.

MR. WORDIE said he thought some remuneration should be given to landholders for their trouble in collecting the cess, and the risk attendant in doing so. He did not see why they should be required to do what was the duty of the officers of Government, without any compensation for the expense trouble, and annoyance they would be put to in carrying through the work.

THE PRESIDENT said that he might at once state boldly that in his opinion the zemindars were not entitled to any remuneration for collecting the cess, and should not have remuneration for any work of this kind. Property had its duties in all parts of the world as well as its rights, and that was eminently the case in India and most eminently so in Bengal, where landed property had been created for the sake of the duties which the landholders were expected to perform. Under the Indian agrarian system all sorts of duties were delegated to the zemindars, and one of those duties was, as he believed, the making of roads; as the zemindars had been absolved from that duty in consideration of paying a cess with others, the least they could do in return was to collect the rate, and that duty was not of a burdensome character. We had in no degree mitigated the process by which the zemindars could collect the rate; the process would involve the sale of the lands of their under-tenants and other stringent means of compulsion. We armed them with these powers and all that they had to do was to collect a certain sum in excess of their rents—to add a percentage to their own collections; and in consideration of their collecting the rate they were absolved from their original burden of keeping the road in repair. Therefore he was strongly of opinion that the zemindar was not entitled

to have any compensation for the collection of the cess. The hon'ble mover of the Bill had also taken the view, that inasmuch as the zemindar would have to pay less than the ryot, the difference between the amount paid by him and his under-tenants would be a compensation for the trouble imposed upon him. We were agreed that it was not advisable to make any pecuniary compensation to the zemindar.

MR. WORDIE said, it was to be remembered that the present was only the first of several measures for the improvement of the country, and it was but natural to infer that the mode of collecting this cess would be adopted for the collection of all subsequent imposts of a similar nature. The collection of these taxes would therefore entail considerable expense, and would be felt as a great burden by landholders. In a recent debate in another Council, it was very clearly stated that the great importance of the permanent settlement was the fixity of the Government demand, and that this was the essence of the benefit it conferred on zemindars. Now, he thought if it really was the case that these cesses were to be collected free of charge to the country, and if landholders were to pay all expenses, the fixity of the permanent settlement was to some extent affected. It could scarcely be said that the zemindar would be put to no expense in collecting, and although the penalty of non-collection would not now cause the sale of his estate, still the entire cost would fall very heavily upon him. In almost every estate in Bengal there were considerable arrears of rent, the amount of which depended upon the season, upon drought or inundation, and, as was lately seen, upon famine. The advances that would have to be made on account of these cesses might therefore be considerable, and it was a serious matter to direct one class of men to undertake a duty of this nature and tell them they were to get nothing for their trouble. He was not aware that any other tax was treated in a similar manner. It would no doubt save great expense and trouble to the State and to its executive officers, and he thought that that very consideration rendered it just and proper that something should be allowed to those on whom this unpleasant task was imposed. It seemed to him that the views of the Government of India as they had been stated in the debate he had referred to, and also the opinion of the Secretary of State, who in a recent despatch enunciated the same principles, rendered it necessary that some remuneration should be allowed.

THE PRESIDENT said, the hon'ble member seemed to forget the saying, "sufficient unto the day is the evil thereof," and while we were discussing this Bill, he was distressing himself unnecessarily by depicting to himself additional cesses for additional objects. He did not know whether any additional cesses would ever be imposed. His belief was that before we came to this Council in order to enable us to impose other cesses, we might have to face the question of taxing movable property for objects of a different character from that now before the Council. At any rate, the views of the Government had not yet gone beyond this Bill, and therefore our consideration should be confined to the provisions of this Bill. No doubt there were arrears of rent in some estates, but he very

much doubted whether the recoverable arrears in estates on the average were really so much as five per cent. Under the Bill the ryots would pay about three-fifths, and the zemindars about two-fifths of the cess; the ryot would pay the major part, and the zemindar the minor part, even allowing for irrecoverable balances. Under these circumstances, he thought the suggestion to compensate the zemindars for the collection of the rate was inadmissible.

MR. SCHALCH said, if the zemindars were not to be employed in the collection of the cess, the only other way to do so would be to give power to the collector to farm it out; and he did not think the farmers' agents would be less scrupulous than those employed by the zemindars: he was quite sure, also, that the zemindar would find it an intolerable nuisance to have strangers roaming on their estates and making collections from their ryots. They might very often find that they were unable to collect ten rupees of rent because twenty rupees worth of property had been fraudulently sold by the cess-farmer for the collection of a sum of a few annas on account of the cess. The truth was that the zemindars would in reality prefer to have the form of collection of the cess placed in their own hands, although undoubtedly they would prefer receiving a percentage for performing the duty. Taking it on the whole, he thought we rather facilitated the collection of the zemindar's rents by demanding the full cess from him, and leaving him to arrange with his under-tenants for the payment of their quota of the rate; and it would be better for them to run the risk of being unable to recover a portion of the cess payable by their under-tenants, than allow an outsider to interfere between them and their tenants.

MR. BERNARD said, it seemed to him that this cess should be paid by the landholders, who were responsible for the keeping open of communications, and it would be for them to recover a certain portion of it from their under-tenants. A precisely similar provision had been introduced in another Bill before the Council, namely, the Bill relating to embankments and water-courses, under which the landlord first paid the whole amount to be collected, and then recovered from those who were liable, and it was never proposed to give him any percentage for doing so.

The section was then agreed to.

The further consideration of the Bill was postponed.

CENSUS OF BENGAL.

MR. BERNARD moved that the Bill to enable the Lieutenant-Governor to take a census of Bengal be read in Council. He said, in February last this Council was good enough to grant leave to bring in a Bill to enable the Lieutenant-Governor to take a census of the inhabitants of Bengal. The plan for taking a census was however for some time in abeyance, and the Census Bill was not brought forward. It has now been decided that a census of all British subjects shall be taken during the coming cold season, and it is necessary to make arrangements for the business in Bengal. He need not trouble the Council with any remarks regarding the objects of a census, nor need he dwell

on the advantages which the Government and the public must gain by knowing more or less exactly the number of inhabitants in every part of this great province. Every civilized country has a periodical counting of its inhabitants, and in most parts of British India a census has been taken once or twice during the last twenty years. But in Bengal no census has ever yet been taken; and the Government of Bengal hardly know within ten millions or so how many people are committed to its care. In all fiscal, educational, police, or sanitary matters, and indeed in all administrative affairs, it must be of the greatest importance for the Government to know how many souls it has to deal with in a particular tract of country. The extreme inconvenience of doubts on a matter of this kind was especially apparent during the Orissa famine, when the Government did not know within half a million or so how many mouths it had to feed. Perhaps some of this uncertainty regarding population statistics must still exist; for he found that a district in Bengal contained about a quarter of a million souls according to one of last year's Government reports, while according to another report published during the same year, the same district contained about three quarters of a million souls.

The absence of any groundwork for the census, and the non-existence of revenue subordinates in the interior of districts, makes the work of the census particularly heavy in Bengal; and therefore it was that the Government was obliged to ask the aid of the Legislature in this matter. In some districts the only agents through which the work can be done are the landholders of the several grades and their managers; these people under the permanent settlement fill positions which are in some sort analogous to the positions of Government revenue officials and village officers in other parts of India. The Bill proposed to empower collectors to appoint enumerators in every village or town, and it provided for landholders and their agents giving reasonable aid. In rural tracts the enumerators will often be the landholder's agents, while in towns it will be comparatively easy to find educated men fit for the business of enumerating. The work required of each enumerator will be comparatively trifling, but still it will not do to have enumerators withdrawing from or neglecting the business when the time for taking the census comes. The form in which enumerators will enter their information will be short and simple; and in some parts of the country the work of taking the census will be spread over several days instead of being completed in a single night. In cities and towns where municipalities cannot undertake the business, and in some rural tracts, it may be necessary to pay the enumerators; and a moderate grant from the imperial treasury will, it is hoped, be available for this purpose.

He would not detain the Council further at this stage, but would only add that it will strengthen the hands of the executive in a very heavy affair if the Council should feel itself able to pass some enactment of the kind now laid upon the table.

THE PRESIDENT said, he might mention, in connection with this Bill, that in the course of the past year the Government of India had required all the

local Governments to take a census of the inhabitants in an extremely complicated form; but yielding to the representations made, the Government of India had been pleased to accept an infinitely simpler form for the taking of the census in Bengal. That form would however be sufficient to convey all useful information which would be required, and it would enable us to submit to the supreme Government an approximate idea of the number of British subjects in Bengal. He hoped that the Bill would be proceeded with without needless delay.

The Bill was then referred to a select committee, consisting of Mr. Thompson, Rajah Joteendro Mohun Tagore, and the mover, with instructions to report within a week.

The Council was adjourned to Wednesday, the 12th instant.

Wednesday, the 12th July 1871.

Present:

His Honor the Lieutenant-Governor of Bengal, *presiding.*
J. Graham, Esq., *Advocate-General.*
A. R. Thompson, Esq.,
S. C. Bayley, Esq.,
V. H. Schalch, Esq.,
C. E. Bernard, Esq.,
Moulvy Abdool Luteef, Khan Bahadoor,
Rajah Joteendro Mohun Tagore, Bahadoor,
T. H. Wordie, Esq.,
and
Baboo Digumber Mitter.

DISTRICT ROAD CESS.

Mr. Schalch moved that the report of the select committee on the Bill "to provide for local rating for the construction and maintenance of roads and other means of communication," be further considered in order to the settlement of the clauses of the Bill.

The motion was put and agreed to.

The postponed section 8 having been read—

Mr. Schalch said, he had explained at the last meeting of the Council the objects proposed to be attained by the amendment of which he had since given notice, namely, that it would enable holders of estates or tenures summarily valued by the collector to ascertain the basis upon which they themselves could calculate the demand which they would have to make on their under-tenants for their proportion of the cess; because in the absence of some such provision, no return having been given in, there would be no data upon which they could ascertain the value of the under-tenures. It was now proposed, that as the collector in summarily valuing an estate would determine the value to be

same in all the estates, and was pretty well known. He thought, therefore, that the case of the Chittagong and similar districts was quite met by the provision for the valuation by acreage. It seemed, however, a matter for consideration whether we should bind the collector to one hard-and-fast line or give him a certain discretion. If the collector were to value some estates at a higher valuation than others, there might perhaps be the idea—though it would perhaps be merely an idea—that the inequality of assessment was due to the influence of the amlah, and there would be dissatisfaction. Otherwise he (Mr. Schalch) had no objection to the amendment.

After some conversation the section was amended so as to stand thus:—

"Whenever the revenue annually payable in respect of any estate, or the rent annually payable in respect of any tenure, shall not exceed the sum of one hundred rupees, the collector may, without issuing any notice for such estate or tenure, determine the annual value of the land comprised therein to be in a permanently settled estate a sum not exceeding three times, and in a temporarily settled estate or tenure a sum not exceeding twice, the amount of the annual revenue or rent payable therefor; and when the acreage thereof has been ascertained, to be at such rate per acre as to him may seem fit. When the land comprised in any estate or tenure has been valued by the collector under this section, the annual value of any portion of such land which is comprised within a subordinate tenure shall be taken to be half the same multiple of the rent payable in respect thereof as the annual value of the whole of such land is of the revenue or rent payable as aforesaid, or shall be at the same rate per acre as the whole of such land; provided that the holder of any such estate or tenure may, within one month from the posting of the valuation roll in respect thereof under section XVII., and the holder of such subordinate tenure may within one month from the date of the first demand made on him for payment of road cess, lodge a return in the form in schedule (A) contained in regard to such estate or tenure or subordinate tenure, and thereupon the annual value of the land comprised therein shall be fixed at the amount entered in such return, subject to the provisions of sections XII. and XIV. Or the collector may, if he think fit, cause a notice to be served in respect of any such estate or tenure in form in schedule (A) contained, and thereupon all the provisions of this Part shall apply in the same way as they would have applied if the annual Government revenue or rent thereof had exceeded one hundred rupees."

Section 22 was agreed to with a verbal amendment.

Section 23 was agreed to.

Section 24 was agreed to with a verbal amendment.

Section 25 was agreed to with verbal amendments.

Section 26 was agreed to.

Section 27 was agreed to with a verbal amendment.

Section 28 having been read—

THE PRESIDENT said he had one or two remarks to make in reference to this section. Objection had been taken to this portion of the Bill by the board of agency of the East Indian Railway Company. The answer which he had caused to be sent to the communication of the board had been circulated to the members of the Council. He might mention that he had this morning received a letter from the agent to the Eastern Bengal Railway Company, couched in similar terms to that which had been received from the board of agency of the East Indian Railway Company, to which His Honor had replied that he had been surprised to receive such an objection from a gentleman who of all others had been most justly pertinacious in urging upon the Government the necessity of

constructing local roads as feeders to that railway. Mr. Prestage complained that railways were taxed, while steam navigation companies were not to be taxed, and that jute factories were not to be taxed. His Honor had told Mr. Prestage that he was so far mistaken that when this Bill would be passed into law the effect would be that jute factories would certainly be taxed, and also that the offices and yards of steam companies would be taxed. But it was difficult to tax steamers, as they used only the natural highways of navigation, that is to say, the great rivers, with regard to which there was no expenditure. It was different in the case of canals, which were the subject of heavy tolls. He thought that the representatives of the railway companies were of all people the most interested in the construction of local roads, and were most benefited by them; and he hoped, therefore, that they would not persist in their objections to this Bill. At the same time he had promised that their representations would be laid before the Council.

He had also received a petition from certain coal proprietors in Bengal which there had not been time to circulate, but, as we were at this stage of the Bill, he thought it was desirable that the secretary should read the petition to the Council.

The petition was then read:—

"TO HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

The humble petition of the coal proprietors in Bengal—

SHEWETH:

That the Bill now before your honorable Council, to provide for local rating for the construction and maintenance of roads and other means of communication, should be amended as regards part III, sections XXVIII. to XXXVIII.

"Section XXVIII. enacts that in any district every mine, quarry, tramway, or railway, or other immovable property not included within the provisions of part II and part IV, shall be liable to the payment of a road cess at such rate not exceeding one-half anna on every rupee of the annual net profits of such mine, quarry, tramway, or railway or other property."

Your petitioners would point out the following objections to and reasons against taxing the profits of coal mines:—

1*st*.—Your petitioners are zemindars of land under some portions of which coal exists, and that the payment of the cess on land under part II is a sufficient and fair charge upon them, equitably with other zemindars, for the construction and maintenance of the ordinary roads of the district. The surface of their coal fields is as available for cultivation as any other portion of the country, and a considerable portion is in point of fact at present under cultivation.

2*nd*.—Your petitioners do not generally use public roads for the purpose of despatching coal; they either construct their own railways and tramways, or use private roads to the line of railway, there being no internal traffic or trade in coal.

3*rd*.—That communications are already taxed in the coal districts as regards mines situated to the west of the Burrakur, where for crossing over the bridge a toll of two annas per cartload and one anna per cart returning empty is imposed. A cart holds about 12 maunds of coal; the tax is equal therefore to three pies per maund, or 11 per cent. on the value of the coal at the pit-mouth.

4*th*.—That by the Act for the construction of a bridge across the Hooghly it is proposed to impose a tax upon all coal brought to Howrah.

5*th*.—That foreign coal is imported free of duty, and owing to the opening of the Suez Canal English coal has been imported in large quantities, and that it is now selling here at a price little over that ruling for country coal.

6th.—That the proposed tax is an additional income tax in reality, and is not equally and fairly levied on the profits of other industrial enterprises, and is consequently unfair to the industrial enterprise of coal mining.

7th.—Lastly, that the imposition of a tax on coal is against all recognised principles of taxation, and in the case of India, where one or two districts, limited in area, supply coal to the whole of Bengal and the North-West Provinces, a tax on coal will fall on consumers, who will eventually have to pay for the support of local roads in these districts.

Your petitioners therefore pray that the Bill, as far as regards the taxing of the net profits of coal mines, be not passed into law.

And your petitioners as in duty bound will ever pray."

MR. WORDIE said, he begged to appear on the part of the proprietors of coal. At present the coal trade here was subjected to very serious competition from England and Australia. The difficulty of getting export cargo from home was now so great, that vessels readily accepted a rate of freight to bring out coal, which a few years ago would have been considered nominal, and he was not prepared to say that this state of things would not continue for some years to come. English coal had always a preference over indigenous coal at about the same value. During the last five months 25,500 tons of coal had been imported, against 17,700 tons in 1870; and so long as supplies were on this abundant scale, coal owners would find difficulty in paying their way. The petitioners stated that roads were not much needed in the districts for the transit of coal; the great bulk of it was put at the pit-mouth into wagons on tramways, and thence brought down by rail. At this season of the year a small quantity came by river, but the supply by that route was limited. The article itself was bulky and of small value; and looking to the tax to be put by this Bill on railways, it was not likely that a reduction would be made in the transit charge now levied, and which he believed was at the rate of three annas per maund for an article which sold for six annas in Calcutta, so that the carriage constituted fifty per cent. of the selling value. On arrival at Howrah coal would be subjected to a terminal charge for the Hooghly bridge, although neither directly nor indirectly would it get any benefit from a tax which was not borne by imported coal. Hitherto we had congratulated ourselves on the coal fields of this Presidency, and their possession had no doubt tended to the development of the trade of this port and the establishment of the jute and cotton manufactories in its vicinity.

He thought, therefore, the Council should be cautious in taking any steps which would tend to check the indigenous trade, or put a tax upon it which might result in throwing the industry into the hands of sea-borne coal.

THE PRESIDENT said, as respects the question of competition between sea-borne coal and indigenous coal, he need hardly say that in this country, on the principle of free trade, we wished to do equal justice to all, and he was not prepared at all to accept the argument that there is foreign competition as a reason for giving any advantages to indigenous produce which were not shared by all the other producing industries of the country. He might say that he was taken somewhat by surprise to hear that coal owners were threatened with

increasing competition from sea-borne coal. He had been led to believe, from a statement lately made to him, that the increasing use of steam by vessels in consequence of the opening of the Suez Canal had turned out rather the other way. As the stowing bulk of steam vessels was less than that of sailing vessels, and they used their own coal, he thought that the practical effect of the opening of the Suez Canal would be to diminish the quantity of imported coal thrown on the market. However, the hon'ble gentleman was much better informed on the subject than His Honor could be, but the question perhaps did properly enter into this argument.

With respect to English coal, it was undoubtedly subject to local rates and taxes in England, and that fact would undoubtedly cut away the ground of the petitioners when they asserted that the imposition of a tax upon coal was against all principles of taxation. The hon'ble gentleman must be well aware that English coal was undoubtedly subject to taxation of the very kind proposed by this Bill, and infinitely heavier in every part of England than any which we could venture to suggest in this country.

We must take this question upon its merits, without reference to the relative advantages in other respects of country or sea-borne coal. First, he must say that we had passed the preliminary section of this Bill, which asserted that a tax should be imposed upon all kinds of immovable property without any exception; and therefore His Honor's first objection was, that it was impossible to except coal mines without stultifying ourselves, when we had already declared that there should be no exception.

Then, as regards the particular points taken by the coal owners, he found that the first was that it would be sufficient if the tax was put upon the land they occupied, and not upon the value of their mineral: that would altogether stultify the object of the Bill. We knew perfectly well that there were enormously valuable coal-fields the surface value of which was next to nothing. Only the other day nearly ten lakhs of rupees were paid by Government for a piece of jungle land containing coal, which, taken on a surface valuation, would not be worth Rs. 50. He would say that it would be a perfect farce to tax the surface value of the land and not the enormous value of the mineral in the land, which is a fixed and immovable property.

Then, with regard to the statement that a rate on coal was against all principles of taxation, it seemed to His Honor that such a rate was imposed in all parts of the world. Coal owners and others must use roads and must cut up roads; and they ought therefore to contribute towards the construction and repairs of that which they used and help to wear out. He must also give a contradiction to the assertion that coal owners did not need roads, for he had received repeated applications for the construction of roads as feeders to railways for the purpose of conveying coal to the line of rail. He had only that morning had an application, that from the public funds land should be taken to construct a line of road to bring coal to the railway, the coal company on whose behalf that application was made offering to bear half the cost of construction.

Although it was true that in many cases coal owners had made private roads for the conveyance of their coal to the line of rail, the hon'ble member must be aware that they had made these roads simply because there were no public funds available for their construction. But if this Bill was passed, coal owners would have a fair claim that a part of the money should be expended in making roads which would subserve their interests at the same time as those of other people. And as he had told the railway company so he told the coal owners, that they would benefit to an infinitely greater extent than the amount of the small cess they would have to pay.

The other objection taken, that in one particular place a toll is levied on coal coming to the rail, is *pro tanto* a reasonable objection; but His Honor must explain that the toll was levied on an imperial road and on an imperial bridge, made at an enormous expenditure of some thirteen or fourteen lakhs of rupees, and crossing a most difficult river. That was an imperial road and a bridge made with imperial funds, and coal owners were taxed because they had not contributed to the construction of that road and bridge. But as regards local roads and communications, it was not proposed to put on a toll in addition to a cess.

Then, with regard to the further objection that coal would pay a terminal charge in connection with the Hooghly bridge, he must admit that that was the objection he had most difficulty in meeting. That was a special and anomalous arrangement, and he was free to admit that it would be a somewhat hard case against coal owners to impose that toll upon them in addition to the cess under this Bill. He would however express the hope, which several hon'ble members entertained, that when that bridge was made it would pay so well that it would be unnecessary to resort to this special tax or terminal charge on coal. But in case that expectation should fail, he must console them with what they themselves seemed conscious of and stated in their seventh paragraph, that in the end the tax would not fall upon them but upon the consumers of coal. They stated precisely that the production of coal was confined to one or two districts, limited in area, which supply coal to the whole of Bengal and the North-Western Provinces, and that therefore the tax upon coal would fall upon consumers, who would eventually have to pay for the support of local roads in these districts. According to their own showing, therefore, coal owners would escape the tax, and it was quite fair that those consumers who benefited by the production of the coal should contribute towards the construction and maintenance of the roads by which it was brought to market.

Under these circumstances, whilst admitting that in respect to the objection regarding the terminal charge on coal in connection with the Hooghly bridge, and in other respects, the prayer of the petitioners was entitled to great respect, he was not prepared to accept the deduction that coal mines should be exempted from the payment of road cess; and he must therefore hold that section 28 of the Bill should stand in its entirety.

MR. WORDIE said, he was not authorized to say that a change in the mode of assessment would meet the wishes of coal owners, but he thought they

would prefer to have the tax on every hundred maunds of coal raised at the pit-mouth, to its being levied on the profits derived from coal. The use of roads or other communications would be the same to all whether a mine was worked to profit or not, and he thought it was treating all alike, and would make the cess fall easier, to levy the tax on the quantity produced rather than on those merely who worked with success. He could not assert that coal owners would accept that arrangement, but he proposed for the consideration of the Council that the question should stand over for a week, by which time he would endeavour to ascertain the views of those interested in coal.

THE PRESIDENT said, he had no doubt that the Council would be prepared to give any such proposition which the hon'ble member may see fit to make on behalf of coal owners, a most careful and respectful consideration, and His Honor would undertake that there would be ample opportunity for proposing any amendment of this kind, if the hon'ble member should see fit to do so. But inasmuch as the 28th section of the Bill was a general section, which covered all immovable property not included in parts II and IV, His Honor would propose that the section be passed, on the understanding that this proposition could be brought forward at the next meeting of the Council, after due notice.

The section was then agreed to.

Section 29 was agreed to with a verbal amendment.

Sections 30 and 31 were agreed to.

Section 32 was agreed to with a verbal amendment.

Section 33 having been read—

MR. SCHALCH said, he would point out that under the previous Part of the Bill, if a false return were given, the person giving it would be liable to be punished under the provisions of the Penal Code, whereas under the Part now under consideration no similar provision was made. Objection to this difference of procedure was taken by the British Indian Association; but it occurred to him that the provision under this Part was much more severe than that under Part II. It would be very rarely indeed that recourse would be had to a prosecution for false return under the Penal Code, whereas under the clause now before the Council the collector could at once make a re-valuation, whilst under the previous Part no re-valuation could be made until the collector obtained a conviction in a criminal court. There could be no doubt therefore that the provision under this Part regarding re-valuations was more severe, and would operate more generally and harshly than the provision under the previous Part of the Bill.

The section was then agreed to.

Sections 34, 35, and 36, were agreed to with verbal amendments.

Sections 37, 38, and 39, were agreed to.

Section 40 was agreed to with a verbal amendment.

Sections 41, 42, and 43, were agreed to.

Section 44 having been read—

MR. SCHALCH said there was considerable discussion in committee regarding this section. There would be no appeal from the valuations except in the case

where, on the action of the superintendent, the original assessment was increased, it being considered that as the assessments would be made by the village punchayet, they should be accepted as a fair valuation. But there could be no doubt that it would be a long while before the village punchayets were established throughout Bengal, and therefore practically for some time the assessments would have to be made by the assessing officer appointed by the collector, whose assessments ought to be tested. A similar question occurred when the Village Chowkeedaree Bill was under discussion, and the way the matter was then settled was this. It was enacted that no appeal as of right would lie from the orders of the punchayet as regards the revision of the assessment, but that the magistrate might call for the general list of assessment, and should so call for such list on the application of ten rate-payers, and pass such orders on such list as he might think proper. He himself was not prepared to move any amendment, but he thought it right to bring this matter to the notice of the Council, with the view to enable them to determine whether any amendment should not be made in the section, and whether it might not be done by the substitution of some such provision as that to which he had referred in the Chowkeedaree Act.

After some conversation the section was agreed to with verbal amendments.

Sections 45 to 48 were agreed to with verbal amendments.

Sections 49 to 65 were agreed to.

Section 66 was agreed to with verbal amendments.

Sections 67, 68, and 69, were agreed to.

Section 70 was agreed to with a verbal amendment.

Section 71 was agreed to.

Section 72 was agreed to with a verbal amendment.

Sections 73, 74, and 75, were agreed to.

Section 76 having been read—

MR. SCHALCH said, in this provision considerable alteration had been made. When the Bill was introduced, it was observed by the hon'ble member opposite (Baboo Digumber Mitter) that a district would form too large an area to be a proper unit of assessment, and that more power should be given to branch committees. Accordingly, it had now been arranged that there should be one district committee and several branch committees in each district. Ordinarily, the branch committees would be subordinate to the district committee, but the Lieutenant-Governor might vest any branch committee with the full powers of the district committee, and then such branch committees would be independent of the district committee, and communicate directly with the commissioner of the division. He would move the addition to the section of the following words:—

"The said Lieutenant-Governor shall from time to time appoint or cause to be elected, under such rules in regard to qualification, election, and discharge as may by him be prescribed for such period not exceeding two years as to him may seem fit, to be members of a branch committee any number of the road cess payers of the portion of the district for which such branch committee shall be formed."

THE PRESIDENT said, he thought it would be better to keep the section as it is. Personally, his object and intention would be to make these branch committees as popular as it was possible to make them; but he submitted that it did not seem desirable to tie up the hands of the Lieutenant-Governor by limiting the qualification of the members of committees, and therefore, if the Council were willing to accept the view, that it should be left to the Lieutenant-Governor to appoint the committees under such general rules as he might prescribe, he would accept the minor amendment.

The motion was carried, and the section as amended was agreed to.

Section 78 related to the assignment of funds.

BABOO DIGUMBER MITTER said, as the assessment would be made for a whole district, there appeared to him to be no means of ascertaining the sums leviable within a particular portion of a district, and it would therefore be very difficult to make an assignment to a branch committee which should not exceed "the total proceeds of all cesses leviable within the said portion of the district." He therefore moved the omission of those words.

After some conversation the amendment was put to the vote, and the Council divided.

AYE—1.	NOES—9.
Baboo Digumber Mitter	Mr Wordie. Rajah Jotcendro Mohun Tagore. Moulvy Abdool Luteef. Mr Bernard Mr. Schalch. Mr Thompson. Mr Bayley. The Advocate-General.

The motion was therefore negatived.

The section was then passed with some verbal amendments.

Sections 79, 80, and 81, were agreed to with verbal amendments.

Sections 82 and 83 were agreed to.

Sections 84, 85, 86, 87, and 88, were agreed to with verbal amendments.

Section 89 was agreed to.

Section 90 was agreed to with a verbal amendment.

Sections 91 and 92 were agreed to.

Section 93 was agreed to with a verbal amendment.

Sections 94, 95, and 96, were agreed to.

Section 97 empowered the Lieutenant-Governor to prescribe rules for certain purposes.

On the motion of MR. SCHALCH, the "employment, election, qualification, and discharge of persons employed under the Act" was added to the purposes enumerated in the section.

Schedules A, B, C, and D, were agreed to with one or two verbal amendments.

Schedule E having been read—

THE PRESIDENT said, this was a very important schedule, and it would be a matter for the consideration of the Council whether the rates prescribed by the schedule were proper rates of assessment on houses. In the communication which the hon'ble member on the right had made to the Council on behalf of the British Indian Association, objection was taken that the road cess on houses was too low. His Honor understood that the essence of that objection was that the cess on houses was not put at a sufficiently high rate. The general result of the schedule as it stood appeared to be that for every Rs. 1,000, or part thereof of the estimated value of the house, there should be levied a road cess of Rs. 2. He thought the letting value of houses might be estimated to be about ten per cent. of their capital value, and in that view he would take the letting value of a house that cost Rs. 1,000 to be Rs. 100: consequently, for every Rs. 100 of letting value, house-owners would pay Rs. 2, whereas other rate-payers were charged somewhat more than Rs. 3; and he was therefore inclined to ask the Council whether it would not be proper to substitute Rs. 3 for Rs. 2 in the case of houses whose value was estimated to be between Rs. 500 and Rs. 1,000, the average being Rs. 750; also, to substitute Rs. 4-8 for Rs. 3 as regards houses whose value was from Rs 1,000 to 2,000, the average being Rs. 1,500; and to substitute Rs. 3 for Rs. 2 as the cess for every Rs. 1,000 above Rs. 2,000. In the case of houses of the value of from Rs. 100 to Rs. 500, the average of which was Rs. 250, he would let the cess remain as it stood in the Bill at Re. 1.

The schedule was passed after amendments to the above effect.

The postponed sections 1, 2, and 3, and the preamble and title, were then agreed to.

On the motion of MR. SCHALCH, a verbal amendment was then made in section 64.

The Council was adjourned to Wednesday, the 19th instant.

Wednesday, the 19th July 1871.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR OF BENGAL, *presiding.*
A. R. THOMPSON, ESQ.,
S. C. BAYLEY, ESQ.,
V. H. SCHALCH, ESQ.,
C. E. BERNARD, ESQ.,
MOULVY ABDOOL LUTEEF, KHAN BAHADOOR,
T. H. WORDIE, ESQ.,
and
BABOO DIGUMBER MITTER.

DISTRICT ROAD CESS.

MR. SCHALCH moved that the Bill to provide for local rating for the construction and maintenance of roads and other means of communication be

further considered to enable him to move certain amendments therein. He said that since the last meeting of the Council he had, with the assistance of the secretary, gone carefully through the Bill, and he found that there were a few alterations to be made—not alterations affecting the principle of the Bill at all, but in the direction of the correction of verbal errors, or to make clearer some of the provisions of the Bill, which were now somewhat complicated.

The motion was agreed to.

Mr. Schalch said, the first amendment he would propose was in section 3, to insert a definition of the term "holder of an estate" which was now used in the Bill. In the Bill as it formerly stood the word "zemindar" was used, but as the term "holder of an estate" was now substituted for the word "zemindar," it was necessary to define the term so as to include all holders collectively. He therefore moved insertion of the following definition after the definition of the word "tenure:"

"The words 'holder of an estate or tenure' mean all or any of the holders thereof; and where two or more proprietors are jointly holders thereof, they shall be jointly and severally liable under this Act."

The motion was agreed to.

In section 5 a verbal amendment was made on the motion of Mr. Schalch.

Mr. Schalch said that the method of calculation for the valuation of subordinate tenures was laid down by section 8. By that method, in some cases the annual value of a subordinate tenure would be reduced below the actual rent. For that he would propose, as an amendment, to omit the words from the word "half" in line 19 down to the word "aforesaid" in line 22, and to substitute for those words the following:—

"a sum equal to the rent thereof, increased by one-half the same multiple or fraction of such rent as that by which the annual value of the whole of such land determined as aforesaid exceeds the revenue or rent payable for the same."

The real result of the provision would best be exemplified by an illustration. Supposing an estate gave a revenue of Rs. 100, and had a tenure with a rental of Rs. 80; supposing the collector to assess the original tenure at one-and-a-half times its revenue; the total annual value of the estate would then be Rs. 150. But the half of one and a half would be three-quarters, and when you multiply the rent by three-quarters, it would make the annual value Rs. 60, or Rs. 20 less than the rent. By the way proposed you increase the rent by half the multiple of the increase, which, in the case supposed, would give Rs. 40, and the result would be an annual valuation of Rs. 120.

The motion was agreed to.

A verbal amendment was made in section 35.

THE PRESIDENT said, that before the Council proceeded beyond part III., he must submit an amendment of some importance. He flattered himself that the striking testimony of the equitableness and excellence of this Bill was this fact, that everybody seemed to look upon it with equal objection and complained equally about it; every one who was hit by this Bill complained equally.

No one liked to pay a tax. The proof of the goodness and equity of a tax bill seemed to him to be clear when every one complained. We had a good many complaints from those whom the Bill had hit, and who did not like to pay. We had answered, he hoped satisfactorily, all those complaints. One objection still remained, and that was the objection of the Government of India, upon whom some portion of the cess upon railways would ultimately fall. The objection of the Government of India was a legal objection, namely, that we were precluded by the Indian Councils' Act from passing any Bill which would have the effect of laying a burden upon the revenues of India. He had been himself disposed to treat the railways in which the Government of India was interested as property and not revenue. But from some discussions that had taken place, so far as the matter had as yet proceeded, the Government of India had taken another view of the matter. They considered that the revenue derived from Government railways was not in the nature of income from property, but was public revenue of that description to which the provisions of the Indian Councils' Act applied. They also considered that, inasmuch as the important railways of this country were guaranteed by the Government of India, and inasmuch as those railways did not earn the amount so guaranteed, every sum which under this Bill would be deducted from the earnings of those railways, would eventually fall upon the Government of India; and that was no doubt the case. In this view they considered, as regards guaranteed railways, that the imposition of this cess would be a contravention of the Indian Councils' Act.

Well, as he had said, he believed that we had satisfactorily answered most of the objections to this Bill. His view and expectation was, that so far as argument went, we could satisfactorily answer the objections of the Government of India. To our own satisfaction at least he hoped to do so. But as compared to all other objectors, the Government of India was in the position that they have us in their hands: we cannot pass our Bills and carry them into effect without their consent. However good a case we might have, it would be useless to proceed against the opinions of the Government of India in such a matter. In order, therefore, to obviate the difficulty which had arisen, the course he would propose was this, that inasmuch as the objection of the Government of India was a legal objection, inasmuch as there was some reason to believe that in point of strict law the Government of India was right, inasmuch as it may so happen that this Bill would affect the Government of India in the manner for which the Indian Councils' Act provides, it will be necessary that we should insert a clause which would obviate the legal part of the objection. The mode by which he proposed to attain that object was to provide that the cess shall not be leviable from these railways, the property of the Government or guaranteed by the Government, without the previous consent of the Governor-General in Council. He imagined that this provision would obviate the legal difficulty, and that it would still be open to us to use those arguments which we hope will prevail with the Government of India; and that in the end we shall, if it can be proved equitable, obtain the cess from the railways which

› either the property of the Government or guaranteed, with the consent of › Governor-General in Council and the Secretary of State. In order to meet › difficulty then, and at the same time to leave the matter open for future nsideration, he had the honor to propose to the Council that at the end of ›tion 28 of the Bill we should add these words:—

"Provided that no railway nor tramway the property of the Government of India, nor any rail- y nor tramway of which the dividend is guaranteed by Her Majesty's Secretary of State for India in ncil or by the Governor-General of India in Council, shall be liable to a road cess under the visions of this Act without the consent of the said Governor-General of India in Council first had obtained."

The motion was agreed to.

MR. WORDIE said, that at the last meeting of the Council he had undertaken ascertain whether coal proprietors would prefer a change in the mode of assess- nt of the cess on coal mines. He found that the coal owners were not animous in their views, and did not want any change in the mode of assessment. eir unanimity only consisted in this, that they did not want to pay any cess all. Under these circumstances he had no amendment to propose.

Verbal amendments were made in sections 80, 93, 95, and 97.

On the motion of MR. SCHALCH the Bill was then passed.

CENSUS OF BENGAL.

MR. BERNARD applied to the President that the Rules of the Council be pended, to enable him to move that the report of the select committee on the l to enable the Lieutenant-Governor to take a census of Bengal be taken into nsideration.

THE PRESIDENT having declared the Rules suspended—

MR. BERNARD said, the report of the select committee having been printed ly within the last day or two, he would ask that the report be read by the retary.

The report was then read:

"We, the select committee appointed to consider the Bill 'to enable the Lieutenant-Governor ake a census of Bengal,' have the honor to make the following report:—

"We have proposed a new section empowering municipal authorities to take the census in cutta and other towns.

"We have introduced a clause making enumerators public servants under the Penal Code.

"We recommend that the Bill as now amended be passed.

"C. BERNARD.
"RIVERS THOMPSON.
"JOTEENDRO MOHUN TAGORE.

"*The 15th July* 1871."

On the motion of MR. BERNARD, the Council then proceeded to consider the l in the form recommended by the select committee.

Sections 1, 2, and 3, were agreed to.

Section 4 was passed with verbal amendments.

By section 5 landholders were required to give all "reasonable assistance" towards the taking of the census. An amendment was carried requiring them to give "such assistance as the collector may require;" and a provision was added to enable the Lieutenant-Governor to "determine, by rules to be published in the *Calcutta Gazette*, the nature of the assistance which the collector may require."

Sections 6 and 7 were agreed to after verbal amendments.

Sections 8 and 9, and the preamble and title, were agreed to.

On the motion of MR. BERNARD the Bill was then passed.

THE PRESIDENT said, that as far as he was aware, he hoped it would not be necessary to trouble the Council at this season of the year with any further meetings for the despatch of much substantive business. Probably it will be necessary that a formal meeting of the Council two or three weeks hence should take place in order to receive the report of the select committee on the Embankment Bill. At the same time, that being a Bill of great complication and importance, and one which it was desirable should be considered with great care, it was not the intention of the Government to ask the Council to proceed with the Bill till a later period of the year. With that exception he thought he might express the hope that he should not find it necessary to trouble the Council with any further labors till the commencement of November next. He thanked hon'ble members very heartily for the assistance he had received from their constant attendance and able assistance in the conduct of very important business, and he trusted that they would be prepared by November next to proceed with other important business which it will probably be his duty to lay before the Council.

The Council was adjourned till a day of which notice will be duly given.

Saturday, the 9th December 1871.

Present:

HIS HONOUR THE LIEUTENANT-GOVERNOR OF BENGAL, *presiding.*
H. L. DAMPIER, ESQ.,
A. R. THOMPSON, ESQ.,
S. C. BAYLEY, ESQ.,
V. H. SCHALCH, ESQ.,
C. E. BERNARD, ESQ.,
MOULVIE ABDOOL LUTEEF, KHAN BAHADOOR,
T. M. ROBINSON, ESQ.,
F. F. WYMAN, ESQ.,
RAJAH JOTENDRO MOHUN TAGORE, BAHADOOR,
BABOO DIGUMBER MITTER,
and
B. D. COLVIN, ESQ.

NEW MEMBERS.

MR. DAMPIER and Mr. COLVIN took the oath of allegiance and the oath that they would faithfully fulfil the duties of their office.

SUBJECTS UNDER CONSIDERATION.

HIS HONOUR THE PRESIDENT said that before he called upon the Hon. Member whose name stood against the first motion in the list of business he would take the opportunity of thanking Hon. Members for their renewed attendance in Council, and he should also like to say a few words in regard to the business before the Council, and also with regard to those measures which were likely shortly to be brought before the Council.

The first, and in many respects most important, of the Bills on the list of business for the day was the motion which the Hon. Member on the left (Mr. Bernard) would make for leave to bring in a Bill to consolidate and amend the law relating to municipalities. Hon. Members were aware that at present there are a number of these Municipal Acts, under which various municipalities throughout the province are constituted. This Bill proposes to consolidate the existing laws, and in some respects to amend them. HIS HONOUR considered the subject to be of the most extreme importance. He might employ the words used by a great man in another part of the world when he said, in answer to the cry for home rule—a cry which, to some extent, had been heard in Bengal—that the best and most useful and practical method of home rule was by means of local administration. HIS HONOUR was a great believer in local self-government. Under free constitutions nothing tended so much to keep the people

free, and under constitutions which were not politically free nothing did so much to help the people to some of the benefits of freedom, as decentralized local municipalities in all parts of the country. In such a country nothing so much tended to prepare the people for a measure of gradual freedom—nothing so much emancipated them from the burden of despotic rule, as the constitution of free municipalities. His HONOUR was most anxious that the Council should do all in their power to create municipalities not only legally, but in fact and in truth to make them *bonâ fide* as far as possible self-governing. It is one of the main objects—he might say *the* main object—of the Bill which the Hon. Member would shortly explain to the Council, to foster those self-governing institutions. It might be doubtful whether these wonderful indigenous institutions, so well known in other parts of India, these little republics, these village communities, which remained intact when empire after empire fell to pieces, whether they ever existed to any very large extent in Bengal: it might be doubtful whether there were any such institutions so perfect here as there were elsewhere; but though the people of Bengal have not the same experience of these institutions as the people of some other parts of the country, he believed that they are the most advanced in point of modern education, and therefore his sanguine hope was that they are more prepared to accept municipal institutions as they are now constituted on western models. The efforts of Government should therefore be to create self-acting municipalities where they do not now exist. The education which had been given to the upper and middle classes of this country might or might not be the best in system, but HIS HONOUR thought that it had really created a very intelligent class of men—a class in many respects capable of self-government; and he hoped and trusted they would find in various parts of the country many enlightened and public-spirited men who would devote themselves to the good of the country in making the most of these self-governing institutions to which he had alluded.

The next Bill which would be submitted to the Council was one of local importance: he meant the Bill for the registration and licensing of jute warehouses in Calcutta. Legislation on this subject had long been known to be eminently necessary, and the subject had recently been forced into prominent notice by the catastrophe of a great fire in the city, by which a large amount of property had been destroyed in a place where jute was stored in large quantities. The particulars of the Bill which was proposed to be brought in on this subject would be explained by the Hon. Member who had charge of the measure.

The next was another Bill also of local importance to Calcutta: he meant the Bill for extending the borrowing powers of the Corporation of the Justices. There might be some doubt on the point whether the late Act passed by the Indian Legislature, enabling the Government of India to make loans to municipalities, has superseded the necessity of this Bill; but his own opinion was that, taking a strictly legal view of the case, legislation in this Council was still necessary. At any rate, while there was any doubt he was anxious to submit

the question for the consideration of the Council. He knew no question which was so difficult as that which regarded the burden which should be imposed on posterity for the improvement and advantage of this generation and the next. It raised a most difficult question, and His Honour was always anxious that questions of this kind should be mooted and thoroughly considered. A suggestion had been made that the Government of Bengal was anxious to govern the town of Calcutta despotically: nothing could be farther from the intentions of the Government; the responsibilities of the Government were sufficiently great already. It was totally impossible that Government could so devote its attention to the many local questions which must arise in Calcutta as to give satisfaction to itself as well as the public. Government is anxious that that responsibility should be fully shared by those members of the community to whom had been entrusted the government of the town. And His Honour would say, with regard to the graver questions requiring the sanction of the Legislature, that he regarded this Council as standing in respect to the Corporation of the Justices somewhat in the position of an upper house,—a sort of senate, where those measures sanctioned by the Corporation would receive more mature and calmer consideration in what he might call a higher and clearer atmosphere. With regard to the question of borrowing for the improvement of the town, he was anxious that the matter which had been considered by the Justices should also be considered by the Council. So far as His Honour himself had formed an opinion on the subject, it seemed to him quite beyond doubt that the improvements which the Corporation proposed to undertake—improvements which were specified and explained in the letter of the Chairman of the Justices—were as desirable as any upon which money could be expended. He thought that all are agreed that the system of drainage, which has been inaugurated and carried out to partial completion, has been a success. He was quite sure that he would be the last man to stand in the way of the extension of a system which has benefited the European portion of the town to the Native portion also. His belief was that this Council would probably approve of the action taken in this matter; but, on the other hand, he believed that the debts of the city are rapidly accumulating, and are a very heavy burden, amounting to something more than a million sterling. To complete the undertaking under consideration would add considerably to that amount. Well, then, we were in this matter to a certain extent not only acting for ourselves, but were acting as trustees for posterity; and it was for the Council anxiously to consider whether it is right and proper, for the interests of the present and future generations, that we should undertake to carry out these works, which are of the very greatest benefit to the town and inhabitants of Calcutta.

The last Bill on the list was also one of great importance, which had been already for a considerable period under the consideration of the Council, but which he believed the Hon. Member in charge was about to suggest that we should for a certain time postpone, in order that further consideration might be given to certain points connected with it. He alluded to the Bill relating to

embankments and drainage. A suggestion had been made that the Gover ment was anxious, by means of this Bill, to rid itself of obligations whi it undertook in the last century, at the time of the decennial settleme Speaking for himself, he might say that the Government had no such wis his impression was, as the Hon. Member in charge of the Bill wo probably tell the Council, that any obligations distinctly undertaken by t Government as part of the basis of the decennial settlement, which aft wards became the permanent settlement, should be maintained intact, and tl the Government should not attempt to rid itself of those obligations. Tl was a point which would be fairly and impartially considered, and fai and impartially laid before the Council. Then this measure would a involve very important questions in regard to the relations between zemind holding their estates directly from Government, and those numer subordinate holders who have great and permanent interests in the soil Bengal He thought Hon. Members, whether they supported or oppo the Cess Bill which was passed last session, would admit that Government h not too much hurried the operation of that measure. He hoped it would considered that we were carrying it out in a tentative and careful way, and n too hastily; and that the results of that measure would be not only to prov for the necessities of the present time, but to give us a knowledge, that have not now got, of the actual rights to the soil in the districts to which Bill would be applied.

Again, the collateral advantage resulting from that knowledge will be, that we shall impose more taxes on that basis, but that the people will be f to arrange amongst themselves, with due regard to their respective rights, improvements which they themselves desire to undertake. The Hoog Drainage Bill, which was passed last session, was a tentative measure of t kind. He had the honor to submit to the Council on that occasion a petit of the inhabitants of a locality in Bengal, who expressed a great desire undertake certain works for the improvement of their lands. Well, then, might be possible to introduce further measures which will allow of the vol tary union of different classes in different localities to undertake improveme for the common good. He merely threw that out as a hint of the measu which might follow those which had been already submitted to the Council.

Before sitting down it might be well, His Honour thought, that in addit to this notice of the Bills to be immediately submitted, he should in a ro way inform the members of the Council of the subjects under the consideration the Government, and in carrying which into effect it was possible Governm might ask the assistance of the Council by means of legislation. One of th measures is in regard to the great canals for irrigation and navigation wh have been undertaken by the Government. All are aware that in Orissa can of that kind have been already carried far towards completion. But the gr difficulty and great dilemma is that great objection has been taken, by the peo of the parts alluded to, to the arrangements under which it is at present propo

to allow the use of water for irrigation. That subject is under the most anxious consideration of the Government. His own impression was that it would probably be necessary that the law affecting the irrigation system should be re-considered, and in the course of the Session it is not improbable that it may be the duty of the Government to submit to the Council a measure on this subject.

Another subject which has been brought under the consideration of the Government, and in respect to which papers have been submitted to the Legislative Department, is in regard to emigration to the districts in the north-eastern frontiers of Bengal, Assam and Cachar, which is governed by special laws. Questions have arisen in regard to emigration to the colonies, but that is a subject which, if dealt with at all, is a subject for imperial legislature. But in respect to emigration from Bengal to countries which are within the legislative jurisdiction of this Council several questions have arisen, in regard to which the Government has been led to believe that it is desirable in some respects to amend the existing law. That is also a subject which was under the anxious consideration of the Government.

Then there is another subject in respect of which it is proposed to submit a Bill to the Council, although that Bill has not yet been prepared—that is, relating to charitable bequests. Great complaints have been made, and he feared to some extent justly, that endowments made by former Governments, and by rich benevolent individuals, for the public good in this country, are not now so efficient as formerly for the purposes for which they were designed. He was inclined to think that there is some justice in these complaints. The ground of these complaints is not so much that the Government has resumed these funds, for in that respect the Government had been most careful and cautious, but that no sufficient provision has been made for compelling those in whose hands the endowments are held to devote them to the objects for which they were given. It is also found, with regard to modern bequests, that there is some difficulty in properly carrying them out; and it is probable that the whole subject will come up for consideration in this Council, and that an Hon. Member connected with the Government would submit a Bill to remedy the defects which have been found to exist.

There is another subject which, somewhat unexpectedly to His Honour, had been precipitated upon us. All the members of the Council, and perhaps all the inhabitants of Bengal, are aware that one of the fundamental laws of that Code upon which the institutions of Bengal were founded—one of the fundamental parts of that great Code of 1793—was Regulation XXVII of 1793, by which all the sayer, market, and other internal duties were abolished, by which compensation was given to those who derived profit from them, and by which those duties were prohibited for the future. Some of the early Regulations applied both to the present Government of Bengal Proper and to the North-Western Provinces; some of them also gave certain powers to the High Court with which this Council was not competent to deal, and the Legislature

of India had in its wisdom thought proper to deal with them so far as to abolish and sweep them away, not with the object of rendering them infructuous, because there was a clause in the Bill lately passed by the Indian Legislature which provided that the principles of those laws should stand. Still the machinery of these old Regulations had been swept away, in order that we might be able to build upon the foundation enactments more suited to modern requirements and to provide for them more effectually. One of the Regulations which was somewhat unexpectedly to him swept away in the process of repealing obsolete enactments was this Regulation of 1793, and the consequence was that we were now left without any machinery for carrying out the principles laid down by that Regulation,—principles which were still abstract law, although the machinery was now wanting. The subject had been pressed upon the consideration of the Government for some time past. Both the records of the Government and the public prints had been full of complaints that that Regulation was in all parts of the country set at defiance; that there was hardly a river in Bengal upon which internal duties were not in some shape levied, and that other duties were in many shapes levied. A case was submitted to the Government in which compensation was paid for a hât, and the proprietor simply removed the hât to a short distance down the river, and at the same time that he received the compensation, he also levied duties as merrily as ever. This subject was pressed on the consideration of the Government, but it involved so many difficulties that we were not yet prepared for immediate legislation, when we found that the old machinery had been swept away: it would probably be the duty of the Government to submit to the Council a measure on this subject as early as possible.

Papers would shortly be published, and would no doubt soon be made patent to the Council, which would show that complaints had been received from many parts of the country that another fundamental provision of the early Code had been, he was sorry to say, systematically set at naught—he meant the Regulation which prohibited zemindars from levying *abwabs*, or cesses, in addition to the proper revenues. We had circulated these papers for the opinion of high officers of Government, and of certain selected persons in different parts of the country, and published them, and it would be for the Council to consider whether we could make the machinery for carrying out those provisions of the law somewhat more stringent than at present.

Another subject connected with the land, and which we were also bound to consider, was this, whether some permanent provision for the maintenance of boundary marks might not be necessary. The Council were aware that the Government had gone to a very large expense to survey Bengal and to lay down boundary marks, but there was no provision for maintaining those boundaries; and he thought it would be a question upon which the members of this Council connected with the land would be better able to come to a just conclusion than His Honour was, whether it would be necessary to make some provision for maintaining boundary marks in order to prevent fraud and litigation.

His Honour by no means professed to have laid before the Council all the measures in respect of which the Government may be bound to require their assistance. He apprehended that we should not over-legislate; he thought they should not do too much in that way, but it was well that he should open to the Council the measures that it was likely would be laid before the Council.

MOFUSSIL MUNICIPALITIES.

Mr. Bernard moved for leave to bring in a Bill to amend and consolidate the law relating to municipalities. He said that at present Municipal Government in Bengal towns, exclusive of Calcutta, was conducted under four different laws, each with its own system and procedure. The earliest of these Acts was Act XXVI of 1850, which empowered Government to constitute a Corporation in any town where the inhabitants may express a wish for self-government. Under this law there were only two municipalities in Bengal, namely, Monghyr and Jamalpore. The next Municipal Act is XX of 1856, under which the whole Municipal Government vests in the Magistrate. The main object of this Act is to provide for the payment of chowkeydars or town watchmen. The Magistrate appoints these chowkeydars, assigns their salaries, manages the town fund, devotes its surplus to cleaning or lighting the town, and nominates a punchayet, who are to help him in assessing the town tax. Forty towns in Bengal had a quasi-municipal organization under Act XX of 1856.

The next municipal law was enacted by this Council as Act III of 1864, and was called the "District Municipal Improvement Act." Under this Act something approaching to self-government was allowed to townships in Bengal. It provides for the appointment of a governing body, on which certain *ex-officio* members sit. This body imposes taxation of four different kinds—it must keep up a town police force, and it may spend municipal money on roads, streets, and conservancy. The Act of 1864 also provides penalties for the breach of certain ordinary and reasonable conservancy rules. A limit is prescribed for each of the different kinds of taxes which the Act permits. Twenty-six towns in Bengal have been incorporated as municipalities under this Act; most of these towns are municipal head-quarters of districts, and all of them are places of some size and importance.

The next Act is Act VI of 1868, the District Towns' Act. This Act was introduced in 1868 by the Hon. Member who had to-day re-joined the Council. When asking for leave to introduce the Bill, the hon. mover sketched the history of municipal legislation in Bengal from the early days of British dominion, and he explained that the Bill of 1868 was drawn on the model of Act XX of 1856; the town committee were to be rather a consultative than an executive body. Their functions were to advise the magistrate on general matters, to examine and remark upon the town estimates, and either to assess the municipal taxes themselves, or to direct their assessment by the ward committees

appointed for different sections of the town. Only one form of taxation is allowed under this Act, namely a tax according to the circumstances and property of the persons to be protected; and the town fund thereby raised is applicable first to the payment of police, and then to the repair of roads or streets, to the conservancy or general improvement of the town, and to the maintenance of dispensaries and vaccination. The Act also contains sundry conservancy clauses, any or all of which can be extended to a town, and it empowers the members of the town committee to try persons accused of transgressing these conservancy provisions. This Act is now in force in ninety-four towns in Bengal.

Besides these four substantive Municipal Acts, there are two or three amending Acts; there are two Acts which refer to the suburbs of Calcutta—an Act regarding vaccination and inoculation in towns, and an Act providing for municipal markets. Thus there are in Bengal 169 municipal corporations governed by one or other of the four municipal enactments he had mentioned, and to some of which the amending Acts and other special Acts applied.

The aggregate municipal income of these 169 towns is about eleven or twelve lakhs of rupees. The interests affected by the Bill which he would ask leave to introduce are thus scattered over many districts, and are themselves of very considerable importance. There is so much business before us to-day that he hesitated to take up the Council's time with any further reference to the existing municipal laws, or to go into the interesting question of municipal or communal Government as it formerly existed in many parts of India. In some way or another, the communal system characteristic of aryan townships may have been more or less obliterated in parts of Bengal; but however this may be, there is no ground for thinking that the people of Bengal will take less interest in municipal government than the people of other parts of India. Large trading marts and industrial centres of population may perhaps be rarer in Bengal than in Northern India; but then, on the other hand, there is a much larger proportion of educated men who are fit to be in some sense leaders of the people; so that perhaps Bengal is more ripe for municipal self-government than any other part of India. The Bill therefore for which he would solicit the Council's consideration will, if it ever becomes law, have an interest for a large and important section of the community.

If he was permitted to lay the Bill on the table, he should have an opportunity of remarking on some of its principal provisions; and he would only now trouble the Council with an outline of the objects which the framers of the proposed Bill have set before themselves.

Firstly, our intention has been to consolidate the old laws, rather than to frame a new law. In order to meet the requirements of large and small towns, the Bill will provide for two or more classes of municipalities, each with a different maximum rate of taxation. It will provide for the appointment or election of a governing body of commissioners, whose powers will be considerably larger than those exercised by the governing bodies under the old municipal

Acts. The Commissioners will have the power of imposing all or any of the municipal taxes; they will decide as to the strength of the police force required for their town; they will vote the town estimates, and their vote, if passed by a majority of two-thirds, will be final. The assessment of the taxes, subject to the maximum prescribed by this Bill, will devolve on the Commissioners or on bodies acting under them. They will have the power of assigning salaries to all municipal servants, and a bench of Commissioners will sit from time to time as Magistrates for trying breaches of the municipal law or rules. The conservancy clauses and the municipal Regulations will be collected into a separate part of the Bill, and it will be optional with the Lieutenant-Governor to apply all or any of them to any town.

In the foregoing respects the new Bill will not differ widely from parts of the other Municipal Bills which have preceded it. He would now very briefly notice the provisions of the Bill which may be in some degree new. As the powers of the Commissioners have been extended, it has been deemed right to provide for the contingency of Commissioners neglecting to carry out the municipal system. The Government after all is responsible for the peace of towns as well as of the country, and for the state of the main arterial roads, and therefore power will be taken by the Government to intervene in cases where the Municipal Commissioners may neglect to maintain a sufficient town police, or may omit to keep in order a district road which may pass through their town. The taxes which under the proposed Bill will be imposable include those which have already in successive Acts been sanctioned by this Council, viz. a tax on persons according to their circumstances and property, a tax on the annual value of houses and lands, a tax on carriages, horses, and elephants, a tax on trades and callings, tolls on roads and on ferries. It is proposed also to take power for a town to impose within its limits town duties or bazar dues. Town duties had, as the Council knows, been a favourite form of municipal taxation in some parts of India, both under Native and under British rule. He was informed that town duties are not popular in Lower Bengal; if so, the Commissioners will not often adopt this particular form of taxation. But bazar dues are very well known all over Bengal; indeed it would seem, as His Honour the President had just observed, as if no bazar or market could be comfortably established until somebody put dues upon its frequenters. If this be the case, it would be as well that the townships should have the benefit of such sources of income within their limits. One other new form of taxation is proposed, viz. a tax on public processions through the town. Each man who wants to take a large procession through the streets will have to pay for a license, graduated according to the wear and inconvenience his procession is likely to cause on the town streets If his procession is a very large one, he will have to pay more; if it is a small one, he will have to pay less. No license fee will be leviable on strictly religious processions, and the adoption of this form of taxation will of course depend upon the views of the Commissioners of each town.

The municipal funds will, under the proposed Bill, be applicable to police, to conservancy, to water-supply, to lighting, to vaccination, to dispensaries and other kindred charges. It is also proposed to make them applicable to two new classes of objects, namely, to educational purposes, which His Honour had referred to, and to the relief of exceptional distress. We propose to empower the Commissioners to expend money on elementary education. This Council has often legislated for the application of town funds to such purposes as street lighting, road improvement, conservancy, and sanitation. Yet it seems impossible to deny that it is at least as important for the welfare of the town that the children of its poor should have the means of elementary education easily available at a reasonable price; it is at least as important that education should be accessible to the children of the poor, as that they should have a few extra street lights, or that the bazar frontages should be slightly more ornamental, or that a few of the streets should be widened. If the members of the Council will consider this matter apart from discussions, which he hoped are dead and buried after the President's announcement of last session that there was to be no general educational cess; if they will consider the question apart from these rather warm party controversies, they will, he hoped, agree that the education of the children of a town is a very legitimate object for the expenditure of a part of the municipal funds which may be raised in such town. He did not wish to criticise the municipal administration anywhere, but it seems somewhat extraordinary that great cities like Calcutta and Bombay, and that towns in the interior, should not have the power, even if they had the will, to devote any share of the municipal funds to the education of the children of the poor. If education were general, there would certainly be less dirt, less disease, less poverty, and less crime in our town than there is now. The Bill does not propose to devote municipal funds to high class schools or colleges, but it will empower the Commissioners to devote a part of these funds to the furtherance of elementary education, that is, to the establishment or maintenance of vernacular schools (or schools with vernacular departments) in sufficient numbers, and at such rates, as to be accessible to younger children of the poorer classes. The only other new object to which municipal funds may be applicable under the proposed Bill is the relief of exceptional distress. It is not meant that any regular taxation should be imposed for the relief of the poor; but in times of famine or flood, the Municipal Commissioners will be able, if they see fit, to devote some of their money to helping the starving poor of their town. There is perhaps no race in the world by whom almsgiving is more generally practised than the Hindoos. Charity to the poor is enjoined by their sacred books, and it has the sanction of their most honored traditions; and he hoped this Council would permit a municipal body, in a time of flood or famine, or of other exceptional distress, to divert for a few months the funds allotted for some town improvement to the relief of their starving or destitute fellow-citizens.

He would only add that if the Council be willing to consider the proposed Bill, the Bill will not be hurried through, but will remain some months

before the public; it will be referred for opinion to the most intelligent of our existing municipal bodies, and it will, he hoped, receive full consideration, and gain much improvement, at the hands of the Council and of the Select Committee.

His Honour the President said he wished to say a very few words in regard to an expression which fell from the Hon. Member who had just addressed the Council. It was just possible that Hon. Members and the public in general might be somewhat alarmed by the formidable catalogue of the modes of taxation which he had with so much ability and so much persuasion detailed to the Council. It was not so much for the information of the members of the Council, but in order to obviate the fears of the public in general, that His Honour drew the attention of the Council to the fact that the proposal of Government was not that *all* these taxes should be imposed, but simply that every municipality should have free and ample power to choose what tax or taxes it considered most desirable to impose. His Honour hoped that amongst these many taxes one or other or several of them would be found which these municipalities would consider adapted to their own requirements, and calculated to press as lightly as may be on the resources of the population. He would also, in regard to the subject of education, say that it was a matter in reference to which, so far as His Honour was concerned, he should be very glad that the Select Committee and the Council should consider to what class of schools, and to what other objects, it should be free and open to municipal corporations to devote their funds. His impression was that at this moment there were many municipalities anxious to give assistance to institutions which the law had not authorized them at present to aid with their funds. He had had frequent applications from municipalities anxious to aid dispensaries and schools; and it often happened that the majority of the people in a town were inclined to aid these institutions, and that they thought and agreed that the best, fairest, and most equitable mode of giving such assistance should be by means of municipal taxation. It is proposed, then, that a very wide power shall be given to municipalities in regard not only to the different modes of taxation, but also in regard to the different modes of expenditure. Coming back to the point from which His Honour started, namely, the establishment of municipal schools, it would be for the Select Committee and the Council to consider to what classes of schools assistance might properly be given. It might be possible that the Council might consider that it should be in the power of municipalities to aid not only elementary schools, but also those schools which give education in the English language and in the knowledge of the arts and sciences communicated through the English language.

He would also say one or two words as to the powers proposed to be given to the Commissioners under this Bill. Now, his impression was very strong that if educated gentlemen connected with various towns in various parts of the country are asked to give their assistance and time and labor for the public good, it is clear that we should entrust them with very considerable powers; and His Honour's hope was, when the Bill was thoroughly manipulated, that the Council

would see their way to giving large powers to the Commissioners, that they would entrust them with some of the powers now entrusted to Magistrates, to deal with questions arising in towns relating to conservancy, so that they might thus exercise both power and responsibilities.

The motion was put and agreed to.

JUTE WAREHOUSES: FIRE-BRIGADE *(Calcutta).*

MR. BERNARD moved for leave to bring in a Bill to amend the law for the registration of jute warehouses in Calcutta, and to provide for the establishment of an efficient fire-brigade in Calcutta and its Suburbs. He said, the principle of licensing, inspecting, and controlling the storage of highly combustible substances in Calcutta had already been affirmed by the Council. Sections 38 and 39 of Act VI of 1866 provided for the registration of existing warehouses and for licensing new ones. The Hon. Member on his right (Mr. Schalch), when laying those clauses before the Council, explained that disastrous fires had occurred in Calcutta in consequence of the careless storage of jute. Two Hon. Members, one of whom he saw opposite to him, opposed those clauses, urging that such restrictions would unduly hamper a very important and largely increasing trade; but eventually the clauses regarding jute warehouses in the Act VI of 1866 were unanimously adopted by this Council. But the law as it stood did not touch the jute warehouses in the Suburbs, and though it provided for registering and inspecting existing warehouses, it did not provide for controlling their owners and for withdrawing licenses, or in any way for enforcing care and vigilance on the part of the owners.

Since 1866 the jute trade had increased enormously: the exports from the port of Calcutta were nearly three and a half million hundred-weights last year, and it was expected that they would reach four millions this year. All, or nearly all this quantity, and a great deal more jute required to make up the seven or eight million gunny-bags exported annually, had to be stored for a longer or shorter time, and had to be packed for export, in or near Calcutta. There were in January last 247 jute warehouses in Calcutta alone, besides those in the Suburbs. As some Hon. Members of this Council well knew, the custom at many warehouses and pressing places was to leave the jute drums (as they were called) and loose jute out in open yards, and to spread jute clippings over the court-yard where a press might be at work. These jute-yards were generally in the heart of the most populous parts of the city: some of them were in the midst of the mercantile quarter on the river bank. It would be in the recollection of most of us that a few weeks back a fire broke out in a jute screw-house on the quay, and that fire, if there had been any wind, must have reached an adjoining jute store; it might have destroyed the quarter of Calcutta which contained all the chief warehouses of foreign goods, and it would probably have spread to the shipping. If the Council allowed him, he would read a short extract from a letter of the Chamber of Commerce, in which

they described the occurrence and urged that some measures should be taken to prevent catastrophes of that kind:—

"The consideration of this matter has been pressed anew upon the attention of the Chamber by the fire which broke out last Sunday night in a jute screw-house situated in a closely occupied part of Clive Street, surrounded by merchants' offices and godowns containing merchandise of great value. It is the general belief that notwithstanding the exertions of the fire-brigade and the extraordinary efforts made by the European crews of vessels moored near the scene of the fire, and which were fortunately successful in confining its ravages to a single block of buildings, if there had been an ordinary amount of wind at the time, the fire would have speedily reached and utterly destroyed a vast amount of property in the neighbourhood, and its extension would have been attended with the most deplorable consequences to the trade of Calcutta."

A few days ago two Calcutta firms, which had their offices and godowns on the quay, complained to the Magistrate against a jute warehouse next door to them. In the enclosure of their store there were some 200 square yards of ground covered with jute clippings; the stack of clippings was twelve feet or so high, and topped the wall of the yard. On one side of this yard was a steam-engine and its fire; on the other was a large forge constantly at work. If a spark had fallen from either of these fires on the jute clippings, and if there had been any wind, a most disastrous fire must have been the result. But the magistrate could not, as the law now stood, compel the owner of the jute yard to take order with his property so as to obviate the risk of fire.

The Justices of the Peace, the Chamber of Commerce, the Suburban Municipal Commissioners, all thought that this state of things ought not to continue, and agreed to ask the Legislature to strengthen the hands of the municipality in this matter. It was happily true that we had not as yet had many serious accidents from the burning of jute stores: but when this Council considered the risk caused by the present condition of many of these jute yards; when it remembered that the existence of ill-ordered jute yards all over the richest parts of the city was not only likely to cause fires, but was certain to increase enormously the evils of any conflagration which might unfortunately occur—when the Council considered these points, it wolud perhaps permit further legislation with a view to strengthening the hands of the municipal authorities in this matter.

It had been suggested that all jute warehouses ought to be taken outside Calcutta, or, at any rate, that a limited portion of the town should be set apart for the accommodation of such stores. But these suggestions had not been adopted in the present Bill. All that was proposed was to empower the Justices to inspect jute warehouses, to insist on their being managed with discretion, and to refuse licenses to new jute warehouses; and the Bill empowered the Magistrate to suspend and to withdraw the license from any jute yard which might be so managed as to cause danger to life or property in the neighbourhood. The Bill also empowered the Magistrate to impose certain moderate penalties for breaches of its provisions.

The third and fourth parts of the Bill were modelled on the recent London Fire-brigade Act. They provided for the establishment and management of a

united fire-brigade for Calcutta and its Suburbs. It might, perhaps, be said that many of the objects of this part of the Bill might be met by the Justices under their present powers; but legislation was needed to enable the two municipal bodies (Calcutta and the Suburbs) to unite together. There were only two clauses of new substantive law proposed in these Parts which were of any importance. The first was the levy of a certain charge on the premia of fire insurances in Calcutta, this charge being a contribution towards the cost of the fire-brigade; and the second, which enabled the fire-brigade officers and the police to take order with property or houses close to the place where a fire might be raging. These provisions seemed in themselves fair and useful; they had been adopted in the London Fire-brigade Act, and there was nothing in the circumstances of Calcutta to prevent our adopting them.

He had only to add that if the Council saw fit to permit the introduction of this Bill, and if the Bill should be referred to a Select Committee, the Committee would take steps to obtain from the Justices, from the Chamber of Commerce, and from the Suburban Municipal Commissioners, such expression of opinion as those bodies might be willing to give on the principles and details of the Bill.

His Honour the President said he had received that morning a memorial from the Agents of certain Fire Insurance Companies in connection with this Bill. He had not had time to communicate with the Hon. Member in charge of the Bill regarding the memorial, and therefore, if agreeable to the Council, he would ask the Secretary to read it.

The memorial, which was as follows, was then read:—

"Calcutta, *4th December*, 1871.

To H. L. DAMPIER, Esq., c.s., *Secretary to the Government of Bengal.*

Sir,

We, the undersigned Agents of Fire Insurance Offices, have to bring to your notice, for the information of His Honour the Lieutenant-Governor of Bengal, that at a meeting held by us this day at the Chamber of Commerce, after discussion of the occurrence of the late disastrous fire (the second of the kind this year) which took place on the night of Sunday, the 26th ultimo and was caused by the ignition of jute in godowns situated in Clive Street, we came to the following resolution:—

'That owing to the great danger in which both life and property were placed from the constant recurrence of such fires, arising as they do from loose jute and cotton stored in godowns situated in and bordering on the bazar, His Honour the Lieutenant-Governor be requested to cause measures to be taken, at the earliest possible date, for the entire removal of all unscrewed and screwed jute and cotton or other inflammable fibres beyond the limits of the town of Calcutta, and for the suppression of all screws within the said limits.'

We do not think that we are unreasonable in urging upon His Honour the Lieutenant-Governor that such an Act may be passed, considering the large interests that are endangered, and that although it is in a measure for our protection, it is still more so for that of native life, as well as both European and native property stored in the business part of the city.

On both occasions of fire to which we refer, there was fortunately scarcely any wind blowing. Had a high wind prevailed, a conflagration might have been witnessed little short of the late terrible one in America, and the loss of property might have involved a large portion of the commercial community in comparative ruin.

In laying this matter before His Honour the Lieutenant-Governor, we beg further to intimate to you that should His Honour require any further information upon the subject before taking action, a deputation of Agents of fire offices will, when convenient to His Honour, be prepared to wait upon him

We have, &c.,

(Signed by the Agents of seventeen Fire Insurance Offices.")

The motion was put and agreed to.

MR. BERNARD applied to the President to supend the Rules for the conduct of business to enable him to move that the Bill be read in Council and referred to a Select Committee.

HIS HONOUR THE PRESIDENT, in suspending the Rules for the conduct of business, said that under the urgent necessity for legislation, caused by the recent occurrence of a disastrous fire, he hoped the Council would think that he was right in suspending the Rules, in order to enable the Committee, to whom the Bill would be referred, to proceed with its consideration as soon as possible.

MR. BERNARD then moved that the Bill be read in Council.

MOULVIE ABDOOL LUTEEF said, he begged to support the principle of the Bill which had just been introduced, and in doing so to state that it had not been introduced a moment sooner than it was most urgently needed. He begged to draw the attention of the Council to the fact that for some time past, and especially since the late fire in Clive Street, there had been an immense increase of jute storage in the Suburbs; almost every empty building, whether pucka or kutcha, from Baliaghatta to Burranuggur, being filled up with loose jute, as well as the empty godowns in Kidderpore in close proximity to the Government dock-yard and other valuable property.

The Sealdah Railway Station had also been crowded with jute drums, through which engines blowing off sparks and dropping red-hot cinders were constantly running, and this had been continued in spite of the strong remonstrance of the Chairman of the Suburban Municipal Commissioners and the Magistrate of the 24-Pergunnahs, and of the warning of the year before last, when a very considerable fire occurred in the station and a quantity of jute and other property was destroyed.

Such a state of affairs very urgently required that some stringent rules should be passed for the registering and licensing of all places not only in Calcutta, but also in the Suburbs, and for insisting that proper care should be taken by the dealers in jute against fire.

The Bill, however, he found, did not vest the Suburban Municipal Commissioners with power in the matter, and he thought that they should have as much power in the Suburbs as the Justices of the Peace in Calcutta.

MR. COLVIN said that as this was the first occasion on which he had the honor of sitting in the Council, he felt that it would have been more becoming on his part to have preserved a modest silence than to address the Council, as he ventured to do, without having first acquired some experience of its proceedings. But as the Bill which had just been introduced was one which,

while of great importance to the inhabitants of the city at large, also closely affected the interests of the section of the community to which he more immediately belonged, and the interests of which he trusted he might be considered in some degree to represent, he did not think he would be doing his duty by his fellow-merchants and traders if he did not endeavour to express the views which he believed to be held by them generally, as well as by himself personally, on the subject. Still he did not wish to appear as the advocate of the interests of a particular class, except in so far as the general welfare was involved in and connected with them. He would premise that the object of the measure, viz. the greater security of the city against fires, especially such as arise from the storage of hazardous goods in premises within its precincts, was one which he was very glad to have the opportunity of supporting, and that he quite concurred in the provisions of the Bill as far as they went; but he thought that there would be found to be a general impression that they should go further still, and that provision should be made for the eventual abolition of licenses altogether for the storage of jute, cotton, and other combustible substances in premises within the limits of the town, and for their gradual removal to safer situations on the outskirts of the city, such as the banks of the canals or the other side of the river. This might appear a strong measure, but he believed it to be really essential for the purpose in view; and that half measures, such as a more stringent system of licensing, though a step in the right direction, were comparatively inadequate. For instance, he was informed that the premises in which the recent fire occurred were duly licensed under the existing Act; yet the fire occurred there all the same, and a similar event might of course happen again in a like situation. It might be said that he had not shown sufficient cause for such an apparently arbitrary proceeding; that the experience of recent years did not point to any fire of such great extent, or attended with such serious consequences as to render it necessary, or to warrant His Honour's Government in adopting it. But if no such calamity had yet happened, he believed that there was none the less a dreadful danger that it might occur, and that an adverse combination of circumstances might at any time cause a fire, originating in these dangerous premises, and spreading to the godowns of English offices, and to the bazar, to spread into a conflagration which would involve disastrous consequences and very heavy losses both to the European and Native community. It was to secure something like immunity from the risk of such a calamity that he desired to advocate the proposal he had named. He was aware that the proposal might involve the consideration of the question of compensation to the owners of property, the value of which would be affected by it; but he did not think that this question was one which it would be very alarming to confront, or difficult to deal with fairly.

The establishment of a more efficient fire-brigade was a step the desirability of which would not, he thought, be questioned; but there was one point connected with it on which he wished to remark, viz. the proposal to tax Fire Insurance Companies for a part of the expenses of the fire-brigade. Though he

happened to be an agent for a Fire Insurance Company, he was not pleading their special interests, but only stating the principle on which he thought such a tax should be based. Fire insurance was a considerable and important element of the trade of the city, and as such fairly liable to bear its due proportion of imperial and municipal taxation; but to single it out specially to contribute to a fund of which the object was admittedly the general safety of public life and property, was, he thought, a proceeding decidedly open to question.

Lastly, he wished to express the general satisfaction, which he was sure would be felt, that His Honour's Government was taking early steps to secure greater protection against fire than now exists, but is urgently needed in this city, which contains such a vast population, and such an accumulation of valuable property within a compartively limited area, and in situations of very considerable risk.

MR. BERNARD said there were one or two points on which he thought he ought to reply, as this was in some sense the second reading of the Bill. The Hon. Member on his left (Moulvie Abdool Luteef) had observed that the Suburban Municipal Commissioners had no power under the existing law to license or register jute warehouses. This, however was a matter with which the Select Committee could deal; but the idea was that the Corporation of Justices for Calcutta should be responsible for the working of the Bill throughout Calcutta and the Suburbs. If, however, it was necessary that the Suburban Commissioners should have co-ordinate powers with the Justices under the Bill, such powers could be given; but there was something to be said for having one agency to do the whole business. The Hon. Member opposite (Mr. Colvin) had made a suggestion which would be a question for the Howrah Municipal Commissioners and the Council to consider, namely, as to whether it would not be advisable to provide for the eventual removal of jute storehouses from Calcutta across the river to Howrah and to portions of the Suburbs. The Hon. Member must be admitted to be a better authority on such a subject than perhaps any other member of the Council, and he had expressed a decided opinion that it was advisable to provide for the eventual removal of these warehouses from Calcutta. On such a point he (MR. BERNARD) had no doubt that the Council would be advised by the Chamber of Commerce and other authorities if they thought it right that such provision should be made in the Bill; and if it was in the interests of the commerce of Calcutta the framers of the Bill certainly would not object. There was one other point that had been referred to, namely, the taxation of Insurance Companies for the support of a fire-brigade. This provision was adopted from the recent Act of Parliament providing for the establishment of the London fire-brigade, and he believed that the history of Insurance Companies in London would show that formerly Insurance Companies used to keep their own fire-engines, and that there used to be a rivalry between the different companies as to which should get first with their engines to the fire. It was however found better to get all the fire-engines into one brigade, under one management; and the Insurance Companies therefore no

longer kept up their respective engines, but contributed towards the expense of the general brigade.

The motion was then agreed to, and the Bill referred to a Select Committee, consisting of Mr. Bayley, Moulvie Abdool Luteef, Rajah Jotendro Mohun Tagore, Mr. Colvin, and the Mover, with instructions to report in one month.

His Honour the President moved that the memorial from the Agents of Fire Insurance Offices, and the communication from the Chamber of Commerce, be printed, and in doing so he said he would take this opportunity of announcing to the Council a fact which would certainly facilitate any legislation which the Council might see fit to take in the direction indicated by the Hon. Member on the right (Mr. Colvin). The fact which he had to state was this, that he believed that Her Majesty's Government at home had sanctioned the immediate construction of the Hooghly bridge. Not a moment would be lost in carrying out the work; and we may reasonably hope, at a very early period, to see Calcutta connected with Howrah by this bridge. One of the main objects of a bridge over the Hooghly was to convert Howrah into a suburb of Calcutta, in which jute might be stored and other measures might be taken to eke out the scant room we have in Calcutta. With reference to the observations of the Hon. Member to whom he had already referred, His Honour would remark that he was not only personally indebted to him for acceding to his wish that he should join this Council, but the Council itself was indebted to him for the practical assistance which he had, in so early a period of what His Honour might style his legislative career, shown himself to be so ready to give us. His Honour was sure that there was no Hon. Member who could give the Council greater assistance in respect of a Bill of this kind, and in respect of other bills of a similar nature, as the Hon. Member, and His Honour hoped he would consent to serve on the Select Committee to whom the Bill would be referred.

The motion was put and agreed to.

CALCUTTA MUNICIPALITY.

Mr. Bernard moved for leave to bring in a Bill to extend the borrowing powers of the Justices of the Peace for the town of Calcutta. A letter from the Justices explaining why they wish to borrow more money, and why they are obliged to trouble the Legislature in the matter, is, he believed, in the hands of each member of the Council. The Justices' letter showed that the Corporation of Calcutta had, at a large meeting, after long discussion, decided to accept the advice of certain skilled engineers who knew Calcutta well, and to extend the drainage works which have already done much benefit to a part of Calcutta. The proposed extension will not indeed complete the drainage scheme for the whole city, but it will provide for the wants of a large and very thickly-peopled part of the native town. As His Honour the President had observed, if the drainage scheme was good, the native portion of the town

should have at least the same advantage from it as the European quarter. These drainage works being of the nature of permanent improvements, cannot be carried out from current revenue; they are an outlay from capital, and must be paid for by loan: the Justices have borrowed up to the full extent of their borrowing powers, and they have no power to issue further debentures. It is true that the Imperial Council have recently passed an Act which authorizes the Government to lend money to municipalities, but that law did not affect the legislation of this Council, which has limited the borrowing powers of the Justices. The Justices consider that the extension now proposed is as heavy a burden as they can fairly lay upon the present inhabitants of Calcutta. When the existing liabilities of the Justices shall have been in some degree discharged, Calcutta may hope to carry out the drainage scheme still further, if its principles and plan are some years hence as generally approved as they are now.

This Council may not desire to consider whether the drainage plan is or is not a good one: the Hon. President has expressed a strong opinion in favor of the drainage scheme; the decision of the Justices is as strongly in his favor; and it seems to be the general estimation that the Calcutta drainage has done very great good to a portion of the town. But although the Council may not wish to discuss the merits of the drainage system, it will at any rate desire, before it permits the Justices to add to the funded debt of Calcutta, to be satisfied that the city can afford these improvements, and that the interest on the proposed new loan can be paid, and a sinking fund to liquidate the principal can be established, without imposing undue burdens on the citizens. The letter which is in the hands of the members of the Council explains the present financial position of the Calcutta Corporation. Calcutta has already a funded debt which shortly will amount to 113 lakhs (£1,130,000 sterling). Of this large sum, 52 lakhs is the water-works loan. He need hardly dwell upon the advantage in respect of water-supply which Calcutta now enjoys above any city in India, perhaps above any city in Asia. But at any rate the water-works loan is not a charge on the general revenues of the Corporation; the water-rate yields enough to pay the interest on the loan, and also maintains a sinking fund which will liquidate the whole loan in about thirty years, that is, within the life-time of the present generation. Six lakhs of the funded debt are the markets loan; and the Justices anticipate that the rents of these markets will fully repay the interest on the loan, and will also maintain a sinking fund for liquidating the debt in thirty years. The rest of the funded debt consists of 55 lakhs, which the Justices were empowered by this Council to borrow for works of permanent improvement; there is of course no drainage rate, so that the interest and the sinking fund on this loan are met from the general revenues of the Corporation. The Justices now find that after paying interest on their funded debt; after setting aside an annual sum for the sinking funds which he had described; and after paying for the police of the town and for its lighting, they had about eleven lakhs of rupees annual income for general purposes; and they believe that from these eleven lakhs they can meet the interest and the sinking fund

allotment for the new loan. If the further loan is sanctioned, the money will probably be obtained from Government under the Local Loan Act, at a much lower rate of interest than the Calcutta debentures now bear. The Justices' letter does not indeed state that the necessities of the proposed loan will not involve fresh taxation; but he gathered that such is their intention, and the Chairman informed him that he considers the existing taxation is sufficient to meet the requirements of the proposed new loan.

MR. BERNARD had troubled the Council thus long in this matter, because it seems right that the financial state of the Corporation should be made clear. Financial difficulties in a sister Indian city may perhaps make the Council anxious about the wisdom of increasing the funded debt of Calcutta. But it seems as if the Calcutta Municipal Corporation has hitherto managed their affairs sufficiently well to warrant their asking this Council's leave to borrow a further sum for permanent improvements to the metropolis of British India.

The motion was put and agreed to.

MR. BERNARD applied to the President to suspend the Rules for the conduct of business to enable him to move that the Bill be read in Council and referred to a Select Committee.

HIS HONOUR THE PRESIDENT said, this was not a subject that the Government had any disposition unduly to hurry, but it was felt that the Justices had justly said that if the work on which the money was to be expended was to be undertaken, it ought to be done quickly. The working season was passing away, and it was very desirable that a reply should be given to their proposition as soon as may be. The subject had been thoroughly discussed by the Corporation, and the papers on the subject would be laid before the Council, which would put them into possession of the whole facts; and under these circumstances, he thought he would be justified in suspending the Rules in order that the Bill might be read in Council and referred to a Select Committee at once.

The motion was put and agreed to, and the Bill referred to a Select Committee, consisting of Mr. Bayley, Rajah Jotendro Mohun Tagore, Mr. Colvin, and the Mover, with instructions to report in one week.

EMBANKMENTS AND DRAINAGE.

MR. SCHALCH, in reference to the motion on the paper opposite his name, moved that the Report of the Select Committee on the Bill to provide for embankments and drainage be taken into consideration in order to the settlement of the clauses, and that the clauses of the Bill be considered for settlement in the form recommended by the Select Committee, observed that since his return to town he had found that a considerable mass of papers had been collected bearing upon very important points of the Bill before the Council. These papers referred mainly to the embankments at present maintained by Government. Since the Council last met, a communication had been submitted by the British

Indian Association which touched on a principle of rather special importance, that was to say, the section which proposed to abolish all pre-existing liabilities. The communication was couched in very moderate terms, and he thought deserved most serious consideration. He thought he might say that there was no desire on the part of the Government to take advantage of any section of the Bill to repudiate their liabilities, and he desired to look into the subject and see what embankments the Government were in justice bound to maintain, and what they had been obliged to take up owing to those who were properly liable not fulfilling their liabilities. It would take time to wade through the mass of papers that had been collected before bringing forward the motion now before his name, as they would require much consideration, and he therefore proposed now to suggest that the Report of the Select Committee be accepted and taken into consideration in order to the settlement of the clauses of the Bill. He would suggest that the consideration of the clauses be at present postponed, and that it be brought forward on a future day for settlement in the form recommended by the Select Committee. He took this opportunity also to mention that the Hon. Member on his left (Mr. Bernard) had very kindly undertaken to relieve him of the management of this Bill. The Hon. Member had been a member of the Select Committee, and had given great attention to the progress of the Bill through the Committee, and he was sure that the Hon. Member was as fully, if not more, able to take charge of the Bill than he (Mr. SCHALCH) was. He would also take the opportunity to say that if the Hon. Member should find at any time that any advice or suggestion was needed in respect of the Bill with which he (MR. SCHALCH) had been so long connected, it would be his greatest pleasure to do so.

The motion was put and agreed to, and the further consideration of the Bill postponed for one month.

The Council was adjourned to Saturday, the 16th instant.

Saturday, the 16th December, 1871.

Present:

HIS HONOUR THE LIEUTENANT-GOVERNOR OF BENGAL, *presiding.*
J. GRAHAM, ESQ., *Advocate-General,*
H. L. DAMPIER, ESQ.,
A. R. THOMPSON, ESQ.,
V. H. SCHALCH, ESQ.,
S. C. BAYLEY, ESQ.,
C. BERNARD, ESQ.,
MOULVIE ABDOOL LUTEEF, KHAN BAHADOOR,
T. M. ROBINSON, ESQ.,
RAJAH JOTENDRO MOHUN TAGORE, BAHADOOR,
BABOO DIGUMBER MITTER,
and
B. D. COLVIN, ESQ.

CALCUTTA MUNICIPALITY.

MR. BERNARD said the report of the Select Committee on the Bill to extend the borrowing powers of the Justices of the Peace for the town of Calcutta had, he believed, already been in the hands of Hon. Members. In the list of business a notice stood in his name that he proposed to ask His Honour the President to suspend the Rules of the Council in order that the report of the Select Committee might be taken into consideration with a view to the settlement of the clauses of the Bill. But he was not now going to make that request. This Bill had only been before the Council one week, and it had scarcely been before the public at all; and as it was a serious matter, thus adding to the responsibilities of the town by enabling the Justices still further to increase their already large funded debt, it seemed better that the rules of the Council should not be further forced, and that full time for the publication of the Bill should be allowed. He did not therefore intend to ask for the suspension of the Rules.

HIS HONOUR THE PRESIDENT said, that before putting the question that the report of the Select Committee be received, he must say that he was very glad that the Hon. Member in charge of the Bill had withdrawn the motion which he proposed to make to apply to the President to suspend the rules in order that the Bill should be taken into immediate consideration. He felt that in a question of this kind the responsibility of suspending the usual course of the

rules, which required the publication for a certain time of a Bill of this kind, would have rested on him individually. He might say that in the case of a Money Bill of this kind he was very unwilling to take such a responsibility. Much had been heard of late of the growth of public opinion in Calcutta; and it had been said that the Government must defer to that growing public opinion. He must say that in some matters public opinion was very active and very quick, but that in regard to other matters public opinion was still exceedingly slow. This question of a very large increase to the borrowing powers of the Justices, and consequently to the debt of Calcutta, was one of very great importance. It was proposed in this Bill to authorise the municipality to borrow thirty lakhs of rupees, that was to say, a sum of about two years of their gross income. If HIS HONOUR might compare comparatively small things to greater, it was to this town as important a Bill as a Bill would be in the British House of Commons to enable the Government to borrow 150 millions sterling, which was about two years' income of the United Kingdom; yet, His HONOUR was disappointed to find, on this subject public opinion had not pronounced itself in the most remote degree one way or the other. On that account HIS HONOUR was the more unwilling to suspend the rule which required that the Bill should be published for the usual term. He was very anxious indeed that this Bill should be thoroughly considered and discussed by the public in order that the inhabitants of Calcutta should be fully alive to the obligations which they undertook, at the same time that they appreciated the benefits which they were likely to receive from the expenditure of this money. Although, then, HIS HONOUR knew that the municipal authorities were very anxious to proceed with this work—a work of the utmost importance to the health of the community—still he was not willing to take upon himself the responsibility of proceeding with this Bill with unusual haste. Consequently this Bill would be published in the usual manner, and the Council would consider it after the full period of publication. He very earnestly hoped that during that period there would be something more than a passive expression of public opinion; that there would be some evidence that the inhabitants of Calcutta were considering a matter which so vitally affected them; that they were not merely sleeping over it; and that they had made up their minds that this was a wise and advisable measure.

HIS HONOUR would say a word more on the subject of this Bill. Although he was not prepared to give notice of the exact form of the motion which he might possibly bring forward, yet he should like to tell the Council that he had it in his mind that it might be desirable to put a rider to a Bill of this kind by which a statutory obligation might be imposed on the municipality borrowing under this Act, requiring and enforcing upon it the obligation of establishing a sinking fund for paying off the loan within a moderate period, say thirty years.

His Honour was quite aware that that prudent course had hitherto been followed by the municipality under its present management. He was also aware that that condition had been imposed on corporations and other bodies which had borrowed money from the Government. But he understood that there was no statutory obligation of the kind imposed on the Calcutta Municipality; and it might happen that in case the municipality found itself in difficulty, possibly under less prudent management or under the influence of different ideas from those which had hitherto influenced it, the Justices might suspend the operation of the sinking fund, and for anything that appeared upon the face of this Bill, might borrow without making provision for the establishment of a sinking fund. His inclination was to suggest to the Council that when the Council proceeded to the consideration of the clauses of the Bill, it might be advisable to put in a statutory obligation on the Municipality when undertaking these loans, not only to pay the interest, but also to set apart a certain sum towards the formation of a sinking fund, in order that posterity might not be burdened with the obligations which were undertaken by the present generation. His Honour therefore in an informal way begged to give notice that he should, if advised that it could conveniently and prudently be done, submit to the Council such a provision as he had alluded to.

The further consideration of the Bill was then postponed.

MOFUSSIL MUNICIPALITIES.

Mr. Rivers Thompson said, as there was no other business on the paper, before His Honour the President adjourned the Council and fixed a day for its next meeting, he wished to put a question to the Hon. Member opposite (Mr. Bernard), with reference to one of the Bills which he introduced at the last meeting of the Council, namely the Bill for the consoildation and amendment of the law relating to Municipalities. With regard to that Bill he (Mr. Thompson) believed it would be expedient that some steps should be taken for its publication before it came before this Council in its next stage. If the Council met that day fortnight, probably it was the intention to bring forward the Bill on that day or at the first meeting held in January. Since the proceedings of the Council at its last meeting had been published, he had been in communication with some native gentlemen of position in Calcutta who had expressed great anxiety in reference to some remarks which fell from His Honour the President, and to the speech of the Hon. Member opposite. The anxiety to which he (Mr. Thompson) had alluded was with reference to the possibility of compulsory taxation through municipalities, and it was feared that local taxation might be largely increased by that measure. Not being aware of the details of the Bill, he had not been able to give any further assurance in the matter than that it would not be brought forward without ample time

being given for discussion and consideration both by the Council and the public. The question therefore that he wished to ask the Hon. Member was whether, if the reading of the Bill in the Council, which was the next stage of the measure, was fixed for the next meeting of the Council, the opportunity would be taken of publishing the Bill as soon as possible, so that with the details of the Bill before the Council sufficient time might be given for its careful consideration.

RAJAH JOTENDRO MOHUN TAGORE said, he was in a position to bear out the remarks of the Hon. Member who had just spoken. It had come to his knowledge that there had been some degree of alarm amongst the community with regard to the Bill to which the Hon. Member had alluded. People seemed to think that the long list of taxes which had been mentioned by the Hon. Member in charge of the Bill would sit heavily on the communities on which they were to be imposed, and on which the burden of taxation was already great; but as neither the principles of the Bill nor its details had as yet been settled, it would be premature for him to hazard any opinion on the subject. That a Bill of such an important nature should be placed before the members of the Council in sufficient time before it was brought on for discussion was exceedingly necessary. He thought it would be also very desirable that this Bill should be before the public for some time to allow full consideration being given to it, and if he mistook not, the Hon. President himself had expressed an opinion to that effect. He had therefore much pleasure in supporting the suggestion of the Hon. Member who had just spoken.

MR. BERNARD said that in reply to the Hon. Member opposite he would ask leave to state the course which he proposed to pursue with regard to the Bill to which allusion had been made. In the first place the Bill had to be laid on the table, which he hoped would be done on Saturday next or whenever the next meeting of the Council might take place; and before the Bill was laid on the table it would be in the hands of Hon. Members. After the Bill was laid upon the table and before it was brought forward for the next stage, there would be such interval as the Council might deem necessary, either a fortnight, or three weeks, or a month. The reading of the Bill in Council was the most important stage of a Bill, for the principles of the Bill were best discussed and considered at that stage. It would be possible to publish the Bill and make it known to the public before it was read in Council, if the President permitted; but as His Honour had told the Council at the last meeting, he was sure that the framers of the Bill would in no way desire to hurry it through its several stages. The Council had a long session before them, and this Bill was the longest and perhaps the most important measure we had to consider. He should hope that there should be at least an interval of three months before the Council was asked to pass the Bill.

HIS HONOUR THE PRESIDENT said, he was extremely glad that the Hon. Member had afforded him the opportunity of obviating all possibility of misapprehension on the part of the public as to the intentions of the Government

with regard to this Bill. There never had been any intention to hurry the measure through the Council. As the Hon. Member in charge of the Bill had explained, the wish of Government was to have the most deliberate consideration given to the measure. In fact the announcement of the Bill had been made somewhat before the Bill was in a proper shape to be laid before the Council, in order that the Council might have ample time for its consideration and discussion. A beginning had been made to manure as it were the mind of the public, and to prepare them for the consideration of the measure. The Bill was as it were on the stocks: the general lines and principles on which we proposed to construct the Bill had been explained, and it would be before the Council for some time, in order that both the Council and the public might have the most complete opportunity of considering it in its fullest details.

His Honour thought it necessary at the last meeting to explain that it was only proposed to give municipalities the *choice* of a long list of different classes of taxes which they might themselves impose; but an explanation of that kind could not be too often given; and he again said that it was not for a moment intended to impose all these taxes together; they were put forward as affording an immense variety of good things so as to give to all an opportunity of choosing what they liked best. In regard to the expressions which had fallen from Hon. Members that there was some fear abroad that the Government was going to impose a good deal of new taxation, he believed when they saw the Bill they would find that the *obligatory* taxation was scarcely, if at all, to be increased. Certain duties, such as the maintenance of police, were now an obligation on municipalities; those obligations it was not proposed largely to increase. But it *was* proposed very widely to extend the principle of voluntary taxation on the part of the people themselves. When His Honour spoke of voluntary taxation, it might be said that he meant taxes imposed by the Municipal Commissioners, and that this was not, strictly speaking, voluntary taxation, because the Commissioners might be nominated by the Government. The circumstances of the country were peculiar, and it would not be possible in the present session to draw clauses which should make an elective Council part of the obligatory constitution of these municipalities; but His Honour was ready to declare, for the information of the Council and of the public, that as far as he was concerned his hope and wish was to give the widest effect to the elective clauses of the Bill—clauses which would afford the means, wherever practicable, of establishing something like an elective constitution in municipalities. It was the great object of Government to create self-governing municipalities; and if His Honour should be permitted to hold for some length of time the position which he at present held in the Government, he hoped to devise means by which voluntary taxation might be imposed by the true and real representatives of the people, and with the consent of the majority of those persons whom they really and truly represented, and for whose benefit the money was to be expended.

The Council was adjourned to Saturday, the 30th instant.

Saturday, the 30th December, 1871.

Present:

HIS HONOUR THE LIEUTENANT-GOVERNOR OF BENGAL, *presiding.*
J. GRAHAM, ESQ., *Advocate-General.*
H. L. DAMPIER, ESQ.,
A. R. THOMPSON, ESQ.,
V. H. SCHALCH, ESQ.,
S C. BAYLEY, ESQ.,
C. E. BERNARD, ESQ.,
MOULVIE ABDOOL LUTEEF, KHAN BAHADOOR,
F. F. WYMAN, ESQ.,
RAJAH JOTENDRO MOHUN TAGORE, BAHADOOR,
BABOO DIGUMBER MITTER,
and
B. D. COLVIN, ESQ.

JUSTICES' BORROWING POWERS.

MR. BERNARD said that on the occasion when he asked for leave to bring in a Bill to extend the borrowing powers of the Justices of the Peace for the town, he explained that the funded debt of the Corporation had already reached the sum of 113 lakhs of rupees, and that they wished to borrow 30 lakhs more for extending the drainage system to the northern portion of the town, and other works of permanent improvement. The Bill had been favorably received, and referred to a Select Committee; and the report of that Committee had been before the Council for some time. His Honour the President, when explaining his reasons for not desiring to suspend the rules of the Council, stated that it might be desirable to impose a statutory obligation on the Justices to maintain a sinking fund for the liquidation of these loans; and in order to carry out that view, he (MR. BERNARD) would ask leave to move the amending sections which had been circulated amongst the members of the Council. The object of these sections was to provide that the whole of the 85 lakhs of rupees, a portion of which the Corporation had borrowed, and a portion of which they proposed to borrow for drainage and such like improvements, should be paid off within a period of thirty years. The rest of the funded debt he did not intend to provide for: it consisted mainly of the 55 lakhs of rupees for the water-works, which was money advanced by the Government of India on specific conditions; one of which conditions was that a sinking fund should be maintained for the repayment of the loan within thirty years, so that the repayment of the water-works loan was sufficiently provided for, and no provision was required in this Bill for the maintenance of a sinking fund on account of that loan. Possibly, if the finances of the Corporation were as well managed as they were

now, the Council might be quite confident that the drainage loan would be paid off within a reasonable time, and a sinking fund properly maintained. But even at the present time it was not quite clear that the drainage loan sinking fund had been properly maintained, and possibly the time may come to Calcutta, as it had come to other cities, when there would be a less effective financial control. If such a time did come, it seemed certain that nothing short of a statutory obligation would prevent the governing body from putting their hands to this fund. In the letter from the Chairman of the Justices it was explained that the Justices were maintaining a sinking fund made up of two per cent. on the capital of the loan, with a view to provide for its liquidation within thirty years. Perhaps, as the Justices had already adopted this plan, it was unnecessary for him to defend its principle; but he might be allowed to say that it seemed fair that the generation which adopted improvements of this kind—permanent improvements which were not in themselves remunerative—should arrange to pay off the cost of their construction; and it did not seem right that we who undertook these works should impose their cost on the coming generation. The Justices perhaps might have considered that it was a little dangerous to allow self-governing bodies, which must in their character be temporary, to undertake improvements of this kind without arranging to pay their cost. But whatever their reason, the fact was that the Justices had made provision for the repayment of these loans, and that their arrangements were cordially approved of by the Government of Bengal; and all that was now proposed to be done was to ask the Council to ratify that arrangement, so that there might be no chance of the sinking fund being broken up, and thus by the end of the present century the whole funded debt of the town might be paid off, and the coming generation might be left free to make improvements required by the necessities of their time. He therefore moved that the report of the Select Committee be taken into consideration in order to the settlement of the clauses of the Bill, and with a view to consider the amendments of which he had given notice.

The motion was put and agreed to.

Section 1 was agreed to.

MR. BERNARD moved the introduction of the following section after Section 1:—

"So soon as the aggregate sums from time to time borrowed by the Justices by way of debenture or otherwise, exclusive of any sums due by them to the Secretary of State for India in Council, shall amount to the said sum of 85 lakhs of rupees, the borrowing powers of the Justices shall thereupon cease and determine, save so far as they are hereinafter expressly reserved."

MR. SCHALCH said that with regard to this section it seemed to him that there must be some amendment. As it at present stood, the Bill would authorize the Justices to borrow money to the extent of 85 lakhs of rupees, exclusive of any sum due by them to the Secretary of State for India in Council. Those words were introduced with a view to exclude from the amount they would be

authorized to borrow the sum already borrowed for the water-supply, amounting to 50 lakhs of rupees. If, however, any portion of the additional 30 lakhs of rupees, which the Bill would authorize them to borrow for the extension of the drainage works, were obtained from the Government, that sum would fall within the scope of the excluding clause, and we would then be allowing the Justices to borrow to the extent of another 30 lakhs of rupees, which they might proceed to borrow from debenture holders: he thought it should be specified that any sum in future borrowed from the Secretary of State should be included in the 85 lakhs of rupees to which this Bill would limit the borrowing powers of the Justices. He would therefore move that the words "exclusive of any sum borrowed from the Secretary of State for India in Council prior to the passing of these Acts" should be substituted for the exclusion clause in the Bill.

The section so worded would exclude the money borrowed from Government for the water-supply, but would include any sum which the Justices might hereafter borrow for the extension of the drainage works either from the Government or by way of debenture.

MR. DAMPIER suggested that the object the Hon. Member had in view would be better met by the insertion in the Section of the word "now" before the word "due."

MR. SCHALCH having acquiesced in the suggestion, Mr. Dampier's amendment was agreed to.

The section as amended was then agreed to.

MR. BERNARD moved the introduction of the following section after the above:—

"The Justices shall be bound to set aside yearly out of their annual income, before making any disbursement in respect thereof, the sum of one and three quarter lakhs of rupees, and shall appropriate the same so far as it is required or will extend, to repay the amount (if any) of such loans or debentures issued by them as shall fall due in the course of the year. And they shall invest the surplus (if any) of the said one and three-quarter lakhs of rupees after repayment as aforesaid, or in case there has not been any amount due or paid in respect of such loans or debentures during the year, then they shall invest the whole of the said one and three-quarter lakhs of rupees in Government securities or in any securities guaranteed by Government in the names of the Chairman of the Justices and the Accountant-General of the Government of Bengal, to be by them held as Trustees for the purpose of repaying at due date from time to time the several loans contracted or debentures issued by the Justices. All interest accruing due on the said securities shall also from time to time be invested by the Trustees in like manner and held upon the like trust."

BABOO DIGUMBER MITTER said that before this section was passed, he respectfully begged to draw the attention of the Council to a resolution passed by the Justices at a special general meeting, when the question of the desirability of extending Mr. Clark's drainage scheme was finally determined upon.

He believed that it was the intention of the Justices to apply to the Government for this loan, which would be guaranteed on the same terms as the loan of 50 lakhs of rupees for the water-works under which terms the sum set apart would be five per cent. by way of interest and one per cent. towards the creation of a sinking fund for the repayment of the debt; whereas the section

under comment made it obligatory on the Justices to lay aside a sum which would be equivalent to two per cent. on the total borrowing powers of the Justices as adjusted by this Bill.

[MR. SCHALCH explained that the sum to be paid by the Justices on the water-works loan was four per cent. by way of interest and two per cent. towards the creation of a sinking fund.]

BABOO DIGUMBER MITTER continued: Under those circumstances the remarks which he had made would not apply. But he thought the section required amendment in another respect: it provided that a sum of $1\frac{3}{4}$ lakhs should be set aside annually for the re-payment of the debt of the municipality. That sum amounted to exactly two per cent. upon the whole amount which the Justices were authorized to borrow. He thought that it would be better to state the percentage to be set aside, because it might so happen that the additional 30 lakhs of rupees which the Justices were empowered to borrow under this Bill might not be required at once, or it might be advanced by the Secretary of State; it would be more precise if the sum to be set aside were denoted by a percentage upon the capital borrowed. He would therefore move the omission of the words "the sum of $1\frac{3}{4}$ lakhs of rupees" in lines 5 and 6, and the substitution for them of the words "a sum of not less than two per cent. on the total sum borrowed by the Justices, exclusive of the sum now due by them to the Secretary of State for India in Council."

MR. WYMAN said as the Hon. Member had called attention to the resolution of the Justices, he might state that he belived that it was not likely that the whole amount of 30 lakhs of rupees required for the drainage extension works would be borrowed at once. Suppose that only $\frac{1}{4}$ of that amount was first borrowed, then the immediate effect of providing that a fixed sum should be set aside towards the sinking fund would be almost tantamount to providing a sinking fund of eight per cent. on the amount borrowed. He thought the principle of the section would be maintained by providing that a fixed sum of two per cent. on the amount borrowed from time to time should be annually laid aside, as it would not be just to the tax-payers to require a fixed yearly deposit by way of a sinking fund irrespective of the amount borrowed.

HIS HONOUR THE PRESIDENT said that in that case it must be made quite clear that the two per cent. to be laid aside must be calculated on the amount borrowed and not on the sum that may at the time be due; for if the two per cent. was to diminish as the amount of the debt diminished, we should never get to an end at all; if we borrowed 85 lakhs of rupees, we must pay two per cent. on the sum borrowed, and maintain it at that sum until the whole debt was liquidated.

MR. SCHALCH said it was just possible that before going into the market the Justices might obtain from the Government of India the sum which they required for the drainage works on the same terms as that upon which they had obtained the loan for the water-works, viz. a payment of four per cent. by way of interest and two per cent. towards the sinking fund. If such an arrangement

should be made, provision would have already been thereby made for the liquidation of the debt, and it would not be necessary to make provision by the section under discussion for a double sinking fund.

His Honour the President said that he did not think that under the circumstances stated it would be providing for a double sinking fund. In the form in which the section now stood, supposing there were an agreement with the Government, the payment to the Government would come under the head of a loan falling due within the year: the only question would be, in a case where the amount due was greater than the sinking fund, if 5 or 6 lakhs were due and only 2 lakhs were available, they might be obliged to pay off the sum due; but he did not see how there would be any double sinking fund.

Mr. Schalch said, supposing the Justices had to pay year by year a certain sum; suppose they borrowed 10 lakhs of rupees from the Government on account of the drainage extension works, having already borrowed 50 lakhs on debentures; when they borrowed 10 lakhs they would have 50+10=00 lakhs, two per cent. upon which would be a little over 1 lakh. Out of that sum a portion would be the sinking fund upon the 10 lakhs borrowed from the Government; in ten years the two per cent. fund would accumulate to something over 10 lakhs, and that sum would go into the common fund. The result would be that they would have a balance of 4 or 5 lakhs out of the sinking fund on the Government loan. Now, as the common fund would be appropriated to pay off the first set of debentures which were held by the public, it would follow that payment made on account of a sinking fund in liquidation of the Government debt, would be absorbed in paying the debt due to the public; a result which might probably lead to Government refusing loans to the municipality to their palpable detriment.

With regard to the loan from the Government for the water-supply, he believed that, as stated by him, two per cent. of the interest paid to the Government was credited by the latter to a sinking fund, and not to an annual repayment of the loan: for he had heard that there had been a dispute between the Justices and the Bank of Bengal as to what charges they were to pay on the money which was deposited towards the sinking fund. The Bank desired to charge their usual rate, alleging that the money belonged to the Justices and not to Government; and he understood that the question was decided in favour of the Justices. If he was correct in that view, that the two per cent. did not go annually as a repayment, but that it went to the formation of a sinking fund, then the Bill would provide for a double sinking fund. As he was not quite sure as to how the matter stood, he would suggest the postponement of the clause.

His Honour the President said that his impression was that the whole of the 6 per cent. was paid to Government, of which two per cent. was credited as a repayment. He thought that as, under the rules, the Bill could not be passed at once, and as the Hon. Member was not prepared to submit an amendment, it would be the most convenient course to allow the section to pass, with the

understanding that if it appeared to him necessary that the section should be amended, he would have the opportunity of proposing an amendment before the Bill was finally passed.

MR. SCHALCH said that even if that were done, there was no provision in the Bill whereby the provision of this section, regarding a sinking fund, could be enforced. He believed the only mode would be by the issue of a mandamus from the High Court. But that was a very expensive course, and one not desirable. The other day the Justices, he believed, did pass a resolution for the formation of a sinking fund. He was at home at the time; but his impression was that a whole year was allowed to pass before the resolution was carried into effect.

BABOO DIGUMBER MITTER said that the resolution to which the Hon. Member referred was passed in 1886, and there was already a payment of 3 lakhs towards the sinking fund; there might have been some delay, but he believed it was unavoidable.

MR. BERNARD said, it appeared to him that there was no doubt the Bill, as it now stood, was open to the exception taken by the Hon. Member on his right, that it did not provide any means for compelling the Justices to make payments towards the sinking fund. It seemed to him that some special means of enforcing the obligation could be easily provided; but he was not sure that the Council would consider it necessary to do so. If the Justices did not carry out the provisions of this Bill, the matter could again be brought before the Council. Last year the Corporation of Bombay declined or failed to provide the cost of their Town Police, and the Government came to the Council and moved it to pass a Bill to authorise the Government to raise taxes to pay off the balance. Something of the kind could be done here, if necessary, but he did not think any such occasion would arise, for the Council might trust to the Justices fulfilling a statutory obligation.

THE ADVOCATE-GENERAL said that he thought the words of the section imported a sufficient obligation on the Justices to set aside a certain sum for a sinking fund; that was an obligation that could be enforced by due course of law. At present the Council was very much in the dark as to the conditions of the loan from Government and the terms under which the sinking fund for the liquidation of that loan was formed. It did not even seem to be ascertained whether the Secretary of State was prepared to advance new funds, and if he did so, and made the same terms as before, no legal provision would be necessary. But with regard to those loans which were obtained from the public at large, it was very necessary to have some statutory obligation to compel the Justices to set aside a part of their income to meet their debts. At present we did not know whether the general public were going to lend the money or the Secretary of State. If the Secretary of State was to advance the money, as he had already made arrangements with the Justices in regard to prior loans, for the establishment of a sinking fund, and we did not hear that there had been any complaint on the part of the Secretary

of State that these terms had not been carried out, it did not appear to him necessary to have recourse to legislation on the subject. If, however, the lenders were to be the general public, no doubt the time had come for some law requiring the Justices to set aside a sufficient sum for the liquidation of their debts. But as regards the question whether the words of the section were sufficient to oblige the Justices to set apart a sufficient sum, he thought that the provision in the Bill was sufficient as it stood. He did not think it would be necessary to do anything more than was provided in the Bill.

BABOO DIGUMBER MITTER'S motion was then carried, and corresponding amendments were made in lines 10 and 15 of the section. The section as amended was then agreed to.

MR. BERNARD moved the introduction of the following section after the above:—

"It shall be the duty of the trustees from time to time, whenever any loans or debentures shall fall due by the Justices, to realize the whole or a sufficient portion of the securities held by them as aforesaid, and appropriate the sale-proceeds thereof, so far as the same will extend, to satisfy such loans or debentures. In case any balance in respect of such loans or debentures so falling due as aforesaid shall remain unsatisfied after appropriation thereto of the sale-proceeds of the whole of such securities, then the Justices may, for the purpose of paying such unsatisfied balance, issue new debentures in manner as is provided by Act VI of 1863, passed by the Lieutenant-Governor of Bengal in Council, section 93, clause 3, or otherwise contract new loans for any sum not exceeding such amount as may be necessary for the purpose aforesaid."

The section was agreed to.

MR. BERNARD moved the insertion of the following section after the above:—

"The trustees shall, at the end of every year, submit a statement to the Justices, showing the amount which has been invested during the year under the third section of this Act, and setting forth the date of the last investment made previous thereto, and also the aggregate amount of the securities then in their hands, and the aggregate amount which has up to the date thereof been paid off in respect of the said debentures and loans. Such statement shall be laid before the Justices and published in the *Calcutta Gazette*. No suit shall be brought against the said trustees, or either of them, in respect of anything done or purporting or professing or omitted to be done in pursuance of this Act."

THE ADVOCATE GENERAL moved the omission of the words "no suit shall be brought against the said trustees, or either of them, in respect of anything done or purporting or professing or omitted to be done in pursuance of this Act." He said that either a legal obligation was intended to be imposed by the Act or it was not. If it was intended to be imposed, then there was no reason why the whole incidents of that obligation should not follow according to due course of law; if a legal obligaton was not intended to be imposed, then there was no necessity for these provisions in the Act. Then as regards the words in question, it was difficult to understand what was intended, because no suit could ordinarily be brought against the trustees. The suit would be against the Justices by a debenture-holder when the debentures had fallen due, and the obligation might be enforced by attachment or otherwise against the trustees. There did not seem to be any reason why that should not follow on the right to sue the Justices on the debentures. The

words, as they stood, were far too general in any case. He would rather leave a debenture-holder to sue in the ordinary way; there was no doubt that if the trustees committed a breach of trust they would be liable for their acts. It appeared to him that the only possible way in which a difficulty might arise, would be supposing a debenture-holder sued in advance of the others; then according to the rule of law the first judgment-creditor might swallow up everything, for his judgment must be satisfied in the first instance, and the others would only get what might be left rateably. It therefore might be desirable, in some possible state of things, to provide for an equitable distribution of the whole fund; when such a time came, which was hardly possible, it would be for the Legislature to provide a remedy, but at the present time he thought such a contingency was too remote to be taken into consideration.

The motion was put and carried, and the section as amended was agreed to.

Section 2 and the preamble and title were agreed to after verbal amendments.

His Honour the President said that looking to the rules by which the proceedings of the Council were governed, if after the settlement of the clauses of a Bill they differed materially upon any important point from the form in which it was read in Council and published, it might be again published as amended and reconsidered after such time as the Council might order. If the clauses were settled by the Council as amended by the Select Committee, the Bill might at once be passed.

He understood that this rule applied to the case in hand, the clauses of the Bill before the Council having been very materially altered. The latter part of the 8th clause of the rule to which he had referred, "otherwise the Bill shall not be passed at the same meeting, but shall be brought forward again at a future meeting, and may then be passed with or without further amendment," particularly applied. The discussion would be adjourned to the next week and the Bill would in the meantime be republished, and he hoped Hon. Members would be prepared to submit in a definite form any amendments which they might consider necessary.

MOFUSSIL MUNICIPALITIES.

Rajah Jotendro Mohun Tagore said that as some Hon. Members were not in possession of the Bill which the Hon. Member opposite (Mr. Bernard) intended to move should be read in Council, he would beg to move that the consideration of the Bill be postponed.

Mr. Bernard said that a motion stood in his name to move that the Bill to amend and consolidate the law relating to municipalities be read in Council. But the Bill was a long one, and unfortunately it had not been possible to complete the revised copy in time to place it in the hands of Hon. Members. Therefore it seemed undesirable to move that the Bill should be laid upon the table or to make any detailed remarks upon it. He therefore did not intend to make the

motion which stood in his name. He hoped that the Bill would be circulated by Monday next, and published, with the Hon. President's permission, in the Gazette on Wednesday, and at the next meeting of the Council he hoped to make the motion which stood in his name in the list of business for to-day.

RAJAH JOTENDRO MOHUN TAGORE said that if the Bill was in the hands of the members on Monday next, and it was proposed to consider the Bill at the next sitting of the Council, the time allowed would be so short that it would hardly be possible to give that attention to the subject which its importance deserved. He therefore thought that a fortnight's time should be allowed before it was moved to read the Bill in Council.

HIS HONOUR THE PRESIDENT said that he thought he might take upon himself to assure the Hon Member that the discussion upon the Bill would not be hurried or precipitated in any manner whatever. Supposing the Bill should not be in the hands of Hon. Members in sufficient time, it was not his intention to precipitate the discussion of the measure. The object of the Hon. Member in charge of the Bill was to enter into the whole question, and to explain his views and the views of the Government in regard to this Bill. He hoped Hon Members would agree with him in thinking that it was very desirable that the Bill should not be placed before the Council in a nude state, but that they should be put in possession of such explanations in regard to the intentions of the Government and the character and purposes of the Bill as the Hon. member desired to submit. It appeared to be the most convenient course that, as the Bill would be immediately circulated, the Hon. Member should explain his views, and then that the debate should be adjourned to a convenient day, in order that Hon. Members, having duly considered not only the Bill but also the explanations that would be offered, might be in a position to explain their views on the subject.

MR. RIVERS THOMPSON said that after the explanation that had been given, if the Hon. Member in charge of the Bill would be ready at the next meeting of the Council to make his statement, and if the debate were then adjourned, ample time would be given for the consideration of the Bill. By the rules of the Council, when a motion was made for a Bill to be read in Council, advantage was taken for a full discussion of the principles upon which the Bill was based. As there was no doubt that the Bill now before the Council was of a nature that would demand the fullest and freest discussion, and that the whole question of local self-government and municipal institutions would have to be taken into consideration, it was very desirable that a week should elapse between the Hon. Member's motion and the discussion of the principles of the Bill. But it appeared to him that if the rules were strictly enforced, the Bill must be referred to a Select Committee at the same time that the Bill was read in Council. If, however, the rules admitted of the course proposed to be followed, then there could be no objection to proceed with the Bill as suggested; otherwise he thought that a longer period should elapse between the circulation of the Bill and its discussion upon the motion that it be read in Council.

His Honour the President said that there could be no manner of doubt that under the rules the President had ample power to adjourn a discussion from time to time, and he had no hesitation in saying that the Bill was of such importance that the fullest opportunities should be afforded for its consideration and discussion.

Through an omission on His Honour's part, he had omitted to inform the Council that a petition of the Trades' Association of this great city had been received with the view of inducing us to proceed with the Bill for extending the borrowing powers of the municipality as quickly as possible; the petition wound up with this prayer,—"The Committee therefore trust that His Honour will be pleased to suspend the standing orders, in order that the Bill be passed into law at once."

He must tell the Committee of the Association that under the peculiar circumstances he was not willing to take upon himself the responsibility of suspending the rules of the Council in regard to a Bill of such importance; but he was quite ready and willing that the Bill should proceed through its several stages as quickly as the rules would admit. In regard to the portion of the Bill lately introduced, which was a provision in respect to the repayment of advances, and so a provision on the side of caution only, he was not anxious that we should spend too much time over it; but he did not think that it would be desirable that he should suspend the rules in order to hasten the progress of the Bill.

The Council was adjourned to Saturday, the 6th January, 1872.

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